BRITISH COLUMBIA

INDUSTRIAL RELATIONS COUNCIL

1988
ANNUAL REPORT

British Columbia Cataloguing in Publication Data
British Columbia. Industrial Relations Council.
Annual report. -- 1987 -

Continues: Labour Relations Board of British Columbia. Annual report of the Labour Relations Board of British Columbia for the year ... ISSN 0319-0404.
ISSN 0838-0899 = Annual report - British Columbia. Industrial Relations Council

1. British Columbia. Industrial Relations Council - Periodicals. 2. Arbiration, Industrial - British Columbia - Periodicals. 3. Labor disputes - British Columbia - Periodicals.

HD8101.5.B74B74 354.7110083'2

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INDUSTRIAL RELATIONS COUNCIL

February 27, 1989

The Honourable Lyall Hanson
Minister of Labour and Consumer Services
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Mr. Minister:

Herewith the Annual Report of the Industrial Relations Council, for the year ended December 31, 1988.

Respectfully submitted,

Edward R. Peck
Commissioner

ERP/me

Encl.

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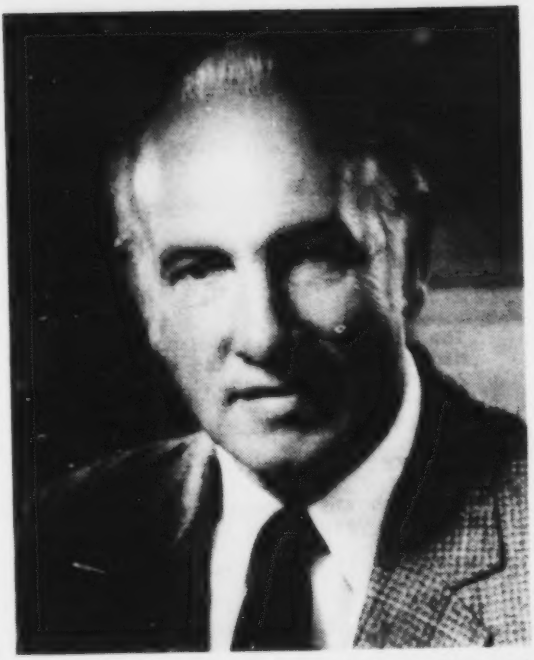
COMMISSIONER'S MESSAGE



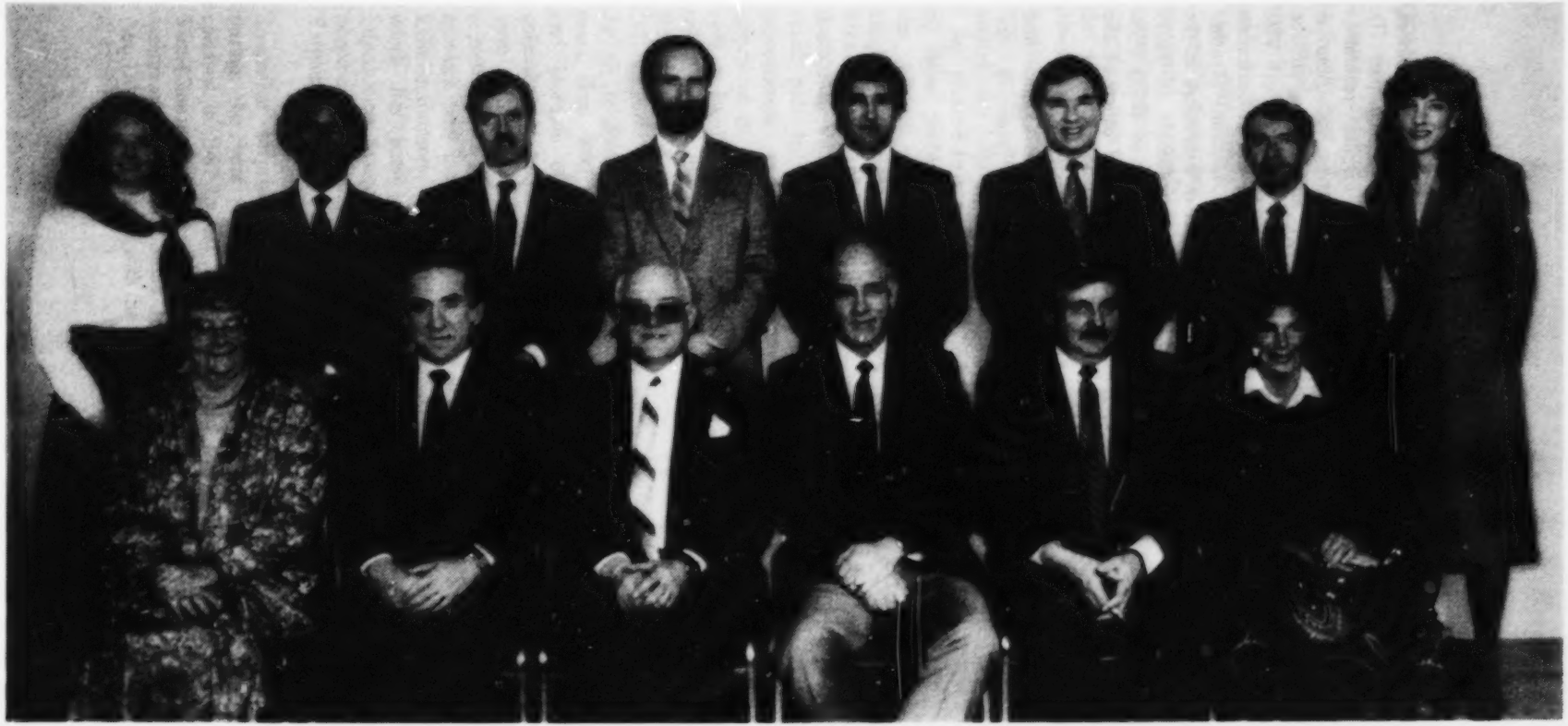
Nineteen eighty-eight stands as the first full year of operation of the Industrial Relations Council, the year in which the Council may be said to have come into its own. The difficulties attending the Council's beginning are a matter of historical record. They were compounded by the lack of adequate premises and facilities, the physical separation of its two divisions and a backlog, by conservative estimate, of more than 950 cases inherited from the predecessor Labour Relations Board. I am pleased to report that in 1988 all those problems were corrected; the Council is now housed in excellent premises at 1125 Howe Street on the periphery of downtown Vancouver, due in no small part to the support of the Government and the exceptional efforts of its agency, the British Columbia Building Corporation. And, by year end. only a handful of the huge backlog of cases remained. Particular credit for this result is due the Chairman of the Adjudication Division, his adjudicators and the Registrar.

As to facilities, we now possess a first class labour relations library comprising more than 4000 texts, including statutes, law reports, decisions of labour tribunals, and journals of various kinds. Also included is a very substantial library of collective agreements. Our manager of Library Services reports that these facilities have attracted a great deal of use by members of the labour bar, and representatives of employers and trade unions alike. As well, our computer network now incorporates 60 personal computers and 40 terminals linked to an IBM 9370 mainframe. Its principal application will be the Case Management System which has been developed by L.G.S. Group Inc. under the direction of our Information Systems Manager and the B.C. Systems Corporation. It is scheduled to become operational in early 1989. Planning of the next phase - the Collective Bargaining Data System - is now well underway.

Somewhat surprisingly, the volume of new applications received by the Council during the year increased significantly over the combined total of applications received in 1987 by the Labour Relations Board and the Council. In the result, our Vice-Chairmen have been faced with an increasing number of adjudication assignments. At the same time, delays in adjudication have now been minimized (see Table 1) consistent with the purpose of the Act.

A new dimension was added to the Council with the appointment of eight members, four representing organized labour and four representing employers (see part II). Their appearance has rendered both our adjudication and dispute resolution processes the more meaningful and we are grateful for their contribution. Regarding senior staff, following Robert Baber's resignation and return to the private sector we transferred Barry Goff to replace him in the post of Vice Chairman, Disputes Resolution Division. The resulting vacancy in the Adjudication Division has now been filled by the appointment of Vice-Chairman Heather McDonald, former legal counsel to the Commissioner. The ranks of mediators in the Disputes Resolution Division have been augmented by the appointments of Larry Gregg, and Lynn Turner (the first woman to be appointed mediator in B.C.). As well, Wayne Mullins has been appointed an Assistant Registrar in the office of the Registrar.

I conclude by expressing my gratitude to all officers, members of the Council and staff for their dedication and hard work during this critical year in our development.



Vice-Chairmen: Back Row - Left to Right - Catherine Bruce, Arthur Haladner, Paul Devine, Joe Crowder, Richard Longpre, Barry Goff, Bob Arseneau, Heather McDonald

Front Row - Left to Right - Nora Paton, Vice-Chairman, Ken Albertini, Registrar, G. Bud Gallagher, Chairman, Adjudication Division, Edward R. Peck, Commissioner, Darwin T. Benson, Chairman, Disputes Resolution Division, Shelley Nitikman, Vice-Chairman

I THE COUNCIL

Section 27(1) of the *Industrial Relations Act* (the "Act") reads as follows:

> 27. (1) The council, having regard to the public interest as well as the rights of individuals and the rights and obligations of the parties before it and recognizing the desirability for employers and employees to achieve and maintain good working conditions as participants in and beneficiaries of a competitive market economy, shall exercise the powers and perform the duties conferred or imposed on it under this Act so as to achieve the expeditious resolution of labour disputes, and for these purposes the council shall have regard to the following purposes and objects:
>
> (a) securing and maintaining industrial peace and furthering harmonious relations between employers and employees;
>
> (b) improving the practices and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees;
>
> (c) promoting conditions favourable to the orderly and constructive settlement of disputes between employers and employees or their freely chosen trade unions;
>
> (d) encouraging the voluntary resolution of collective bargaining disputes;
>
> (e) minimizing the harmful effects of labour disputes on persons who are not involved in the disputes;
>
> (f) providing such assistance to employers and bargaining agents as may facilitate the making or renewing of collective agreements;
>
> (g) gathering and publishing information and statistics respecting collective bargaining in the Province.

These purposes and objects form the policy foundation for the Council's comprehensive jurisdiction under the Act, which governs the process of collective bargaining and offers mechanisms to assist in the resolution of labour disputes in both the public and private sectors of the Province. In addition to the responsibilities under the Act, the Council is charged with responsibility in labour relations matters under eleven other statutes (see Table B). The Council's expansive jurisdiction is unique among Canadian labour tribunals and requires an administrative structure to accommodate this varied legislative mandate. Section 12(2) of the Act

provides that the Council shall consist of a commissioner, vice chairmen, and as many members equal in number representative of employers and employees respectively, as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council. The commissioner is the head of the Council. The Act requires that there be at least two divisions of the Council, one of which the commissioner has designated the Industrial Relations Adjudication Division (the "Adjudication Division"), and the other which he has designated the Disputes Resolution Division. The commissioner is required by the Act to designate one of the vice chairmen to be chairman of the Adjudication Division and another vice chairman to be chairman of the Disputes Resolution Division. He has also designated a vice chairman as registrar of the Council. The chairmen and registrar report directly to the commissioner, but the two Divisions and the Registry operate as departments administratively independent of each other.

A fourth department of the Council, entitled Finance and Administration, has also been established to administer the personnel, budget, library, and computer requirements for the tribunal as a whole.

The abbreviated organization chart on page 10 offers a visual illustration of the Council's administrative structure. Following is a brief description of the Council's administrative operations.

The Commissioner

As head of the Council, the commissioner has a general obligation to oversee the administration of the legislation and the Council's operations. (The chairmen of the Adjudication and Dispute Resolution Divisions, the registrar and the manager of Finance and Administration all report directly to the commissioner). Pursuant to Section 13 of the Act, the commissioner is empowered to establish panels and refer business to them. Accordingly, the commissioner, on the recommendation of the chairman, appoints the adjudication panels in the Adjudication Division and may himself sit on such a panel to resolve a legal dispute. The commissioner also has significant powers under Part 8.1 of the Act in assisting parties to achieve a voluntary resolution of interest disputes. These powers include the appointment of mediators and fact-finders and the referral of disputes to public interest inquiry boards.

The Registrar

Every application received by the Council enters the system through the registrar's office, which oversees the administration and progress of the case as it makes its way through the system until the matter is finally disposed of by the Council. Even applications which under the Act are to be made to the commissioner or chairman of the Disputes Resolution Division must be initiated through the registrar's office which will process and direct them to the appropriate individual. The effective and speedy processing of cases will be augmented by the Council's new computer system. Thus it is particularly important for computerized case monitoring/management purposes, that every application to the Council be processed through the one location of the registrar's department. The registrar is also responsible for the Council's special investigating officers. He assigns them to assist parties to achieve a settlement of a legal issue, with the goal that a formal hearing and legal adjudication may be unnecessary. Finally, the registrar, as a vice chairman of the Council, may chair or sit as a member of an adjudication panel. A new procedure has been established whereby the registrar, as lone panel member, may dispose of certain applications that lend themselves to summary disposition. This process has contributed to a much speedier disposition of many types of applications. The registrar's staff includes two assistant registrars, three special investigating officers, a secretary and other support staff.

The Adjudication Division

As its name denotes, the Adjudication Division concentrates on adjudicating legal issues in labour relations such as the acquisition and termination of bargaining rights, complaints of unfair labour practices and allegations of illegal strikes, lockouts or picketing activity. In essence, the Adjudication Division continues the function of the former Labour Relations Board. It is not involved in the resolution of interest disputes. The majority of applications to the Council are directed to the Adjudication Division for resolution.

The efforts of the investigating officers achieve a voluntary accommodation in approximately half of these cases. Notwithstanding the high percentage of

voluntary resolution, the Adjudication Division has a heavy caseload which must be dealt with as expeditiously as possible. The Division is managed by a senior vice chairman who is appointed chairman of the Division. The chairman monitors the workload in the Division, deals with any problems that may arise in the scheduling of hearings or other difficulties that may occur in the processing of a given case, and is generally responsible for the efficient provision of the Council's adjudicative services. Thus the new computerized case monitoring/management system will be of great assistance to this chairman. As of December 31, 1988, there were nine vice chairmen reporting to the chairman of the Adjudication Division. Given that he is also a vice chairman of the Council, the chairman may himself chair or sit as a member of an adjudication panel.

Legal services to the Adjudication Division are provided by a staff of five lawyers. The senior solicitor is employed on a continuing basis for the Council, whereas other lawyers are hired on temporary contracts. The lawyers report to the chairman of the Adjudication Division through the senior solicitor. They engage in legal research, attend hearings and provide legal advice to the members of the Adjudication Division, as well as represent or assist in representing the Council's interests in judicial review proceedings. The chairman of the Adjudication Division is also assisted by a secretary and other support staff.

The Disputes Resolution Division

This Division has the statutory responsibility to monitor all labour disputes in the Province and to assist parties in the voluntary resolution of collective bargaining conflict. Preventive mediation is encouraged. Moreover, the Division is intended to function as an industrial relations resource centre, for the Act requires that it gather and publish information and statistics respecting private and public sector settlements, labour relations, employment and collective bargaining in the Province. The computer system will be a critical tool in this regard. This Division is managed by a senior vice chairman, who is appointed chairman of the Division by the commissioner. The Act empowers the chairman to appoint a mediation officer to assist parties in resolving an interest dispute, at the request of a party, on his own motion, or at the direction of the commissioner. The mediation staff from the former Mediation Services Branch of the Ministry of Labour now form part of the staff of the Disputes Resolution Division. As of December 31, 1988, there were five mediators and one vice chairman, as well as support staff, reporting to the chairman of this Division.

Finance and Administration Group

Finance and Administration is responsible for administering the Council's budget and its support personnel including library, computer, security, personnel services and other day-to-day requirements. Its manager oversees the administration of the collective agreement which the Executive Committee negotiates with the Staff Association of the Council. The manager of information systems, manager of library services, and the administrative/personnel officer, all report to the manager of Finance and Administration. The vice chairmen's secretaries also report directly to him. In 1988, Finance and Administration successfully orchestrated the relocation of

the Council's entire operation to its current premises, opened the new enlarged library (now widely recognized as one of the finest in the city), and continued its work on the development and implementation of the Council's information and computer systems.

With the advent of the Council an opportunity arose to use computers in the workplace more extensively so to increase productivity and meet the strict time constraints for actions and decisions by the Council.

In the fall of 1987 with the assistance of external consultants the Council started to develop a data management plan, making use of current computer technology. The main goals of the system were to improve word processing capacity and to develop a case management system that would improve and control the internal and external flow of documents and information. In addition the system would be used to generate statistics on collective bargaining, store library catalogues, and allow for the use of computer aided research tools.

In February the Council moved into its new premises. The premises had already been outfitted with the computer hardware required for the system. At that time the increased word processing capacity was put into full operation.

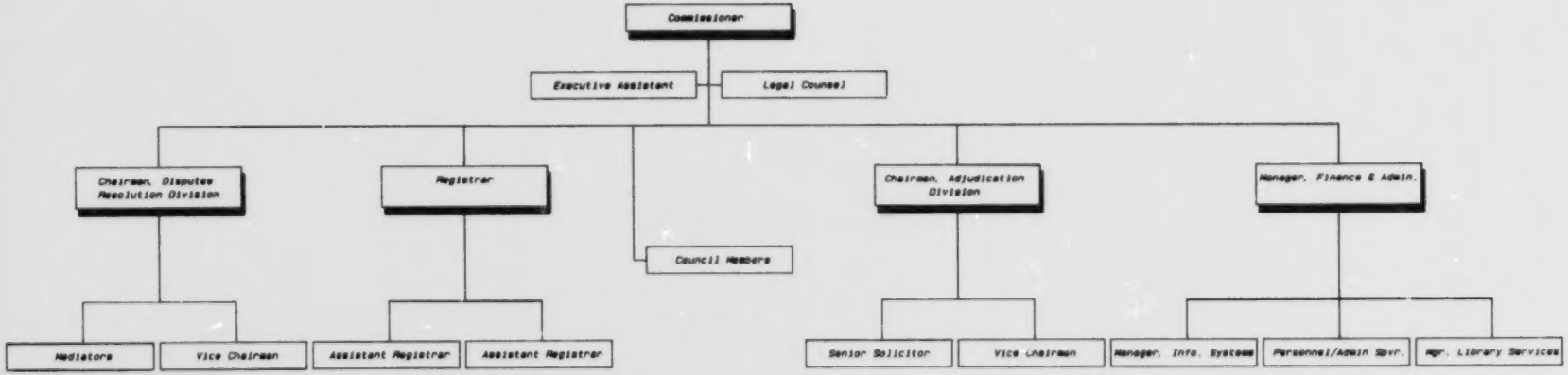
Coincident with the move, work was started on the development of the Case Management System. This system has as its main components:

- *event tracking*
- *external document tracking*
- *document generation (e.g. notice of hearings)*
- *resource scheduling (e.g. witnesses, adjudicators, hearing rooms etc.)*
- *management information (e.g. caseloads, elapsed times, etc.)*

It was also envisioned that the system would be fully integrated with the improved word processing system.

The first two phases of the system became operational in September. This allowed for the inputting of the information held by the Council on employers and trade unions within the Province. It also provides for users to inquire against the information contained in the data base. The third phase of the system dealing with the case processing is currently undergoing acceptance testing and will become operational in early 1989.

Industrial Relations Council
Abbreviated Organization Chart



II MEMBERS OF THE COUNCIL

As of December 31, 1988, the Council consisted of the following members:

EDWARD R. PECK *Commissioner*

Mr. Peck graduated from the University of British Columbia in 1949 with the degree of Bachelor of Commerce. He has more than thirty-five years of industrial relations experience in public and private industry, spanning both federal and provincial jurisdictions. The positions he has held include: Chief of Personnel Services, B.C. Power Commission (1955-61); General Manager, Peace Power and Columbia Hydro Constructors (1966-69); Manager of Labour Relations, B.C. Hydro (1970-71); President, Towboat Industrial Relations Association of B.C. (1971-73); Vice Chairman and Chief Administrative Officer, Labour Relations Board of B.C. (1973-79); Commissioner, Compensation Stabilization Program of B.C. (1982-87). He has also served as an Industrial Inquiry Commissioner and mediator/arbitrator in a number of disputes, and as special advisor to various ministers of labour.

G. BUD GALLAGHER *Chairman, Adjudication Division*

Mr. Gallagher had an active career in the Ontario construction industry as a manager and owner before graduating from the University of Ottawa Faculty of Common Law in 1974 with the degree of LL.B, Cum Laude. Immediately thereafter he articled with the Vancouver law firm of Russell & DuMoulin, and spent four years with that firm in the practice of labour law. From 1979 to 1981 he was a vice chairman of the Labour Relations Board of B.C., subsequently returning to private law practice in his own firm, again practicing labour law with an emphasis on collective bargaining and labour relations training. He has taught at the University of B.C. as a part-time lecturer in labour relations. Immediately prior to his appointment as chairman of the Adjudication Division, Mr. Gallagher was chairman of the B.C. Workers' Compensation Review Board.

DARWIN T. BENSON *Chairman, Disputes Resolution Division*

Mr. Benson has many years experience with industry, government and trade unions involving personnel training, negotiation, and administration of collective agreements, and development of labour relations policy. From 1967 to 1979 he was International Staff Representative with the United Steelworkers of America. Mr. Benson was instrumental in forming the Kootenay-Boundary Labour Relations Association, a collective bargaining organization of 24 municipalities. He served as chief conciliation officer, Mountain Region, Labour Canada. From 1982 until his appointment to the Council, he was superintendent of labour relations with Esso Resources Canada Ltd. at Canada Wide Mines and Byron Creek Collieries in British Columbia.

KENNETH E. ALBERTINI *Registrar and Vice Chairman*

Mr. Albertini is an experienced mediator and adjudicator, and has more than twenty years labour relations experience in British Columbia. He has held many positions involving the negotiation and administration of collective agreements, including supervision of operations, Greater Victoria School District #61 (1971-1973), and president of Transport Labour Relations (1976-1977). He served as a mediation officer with the Mediation Services Branch of the B.C. Ministry of Labour for seven years. Mr. Albertini was appointed vice chairman of the Labour Relations Board of B.C. in 1981, and vice chairman/registrar in 1984, which positions he held until his appointment with the Council. He is a member of the Arbitrators' Association of British Columbia.

ROBERT J. ARSENEAU *Vice Chairman*

Mr. Arseneau graduated from the University of New Brunswick in 1968 with a Bachelor of Civil Law degree. He was employed as a solicitor with the New Brunswick Department of Justice from 1968 to 1971, where he provided legal advice to numerous government departments and administrative tribunals, including the Department of Labour, and the New Brunswick Labour Relations Board. From 1971 to 1975 he was a partner in a private law firm practicing labour law, representing trade union clients in both the public and private sectors in New Brunswick. He became a member of the Canada Labour Relations Board in 1975 and served five years in that capacity. After admission to the Bar of B.C. in 1981, he joined the labour department of the Vancouver law firm Ladner, Downs, and from 1984 until his appointment with the Council, he practiced labour law in his own law firm. Mr. Arseneau is an experienced adjudicator, and a member of the Arbitrators' Association of British Columbia.

CATHERINE J. BRUCE *Vice Chairman*

Ms. Bruce received an LL.B degree from the University of British Columbia in 1976. After articling with the Vancouver law firm of Shrum, Liddle and Hebenton, she attended the London School of Economics and Political Science, obtaining a Masters of Law with distinction in 1978. Ms. Bruce has considerable labour law experience. She worked for a short time with the Vancouver law firm of Baigent, Jackson, Blair, and was employed as a business representative with the Canadian Airline Flight Attendants' Association, now the Airline Division of CUPE. In this latter capacity, Ms. Bruce appeared extensively as counsel before the Canada Labour Relations Board, arbitration boards, and the Workers' Compensation Review Board. She also negotiated collective agreements and acted as counsel in airline accident inquiries. Prior to her appointment with the Council, Ms. Bruce was a partner in the Vancouver law firm of Braidwood, McKenzie, Brewer & Greyell, practicing labour law.

JOE CROWDER *Vice Chairman*

Mr. Crowder has an extensive background in labour relations in the Province in both the private and public sectors. His experience encompasses railroading, railcar manufacturing, winch manufacturing, truck manufacturing and the negotiating of collective agreements in each of these industries. In 1981 he became the Director of Industrial Relations for the City of Kamloops. At this time, he also became a member of the bargaining committee for the Okanagan Mainline Municipal Labour Relations Association. He presently serves, and has for many years, as Executive Vice-President and member of the Board of Directors with Interlock, a non-profit society providing employee assistance programs to the labour relations community, co-sponsored by management and labour in B.C. He joined the Council in February of this year.

A. PAUL DEVINE *Vice Chairman*

Mr. Devine graduated from the University of British Columbia in 1972 with an LL.B degree. After articling with the Vancouver law firm of Alexander, Guest and Company, he was appointed as a compensation consultant with the British Columbia Department of Labour, representing workers and dependents before the Workers' Compensation Boards of Review. Mr. Devine has extensive experience as an adjudicator. He held several positions at the Workers' Compensation Boards of Review/Review Board since his appointment as administrative chairman in 1977, including that of registrar. He was appointed chairman of numerous appeal boards, and adjudicated thousands of cases in his ten years of service with the Boards of Review/Review Board. Prior to his appointment with the Council, Mr. Devine was a commissioner of the Workers' Compensation Board of British Columbia.

BARRY GOFF *Vice Chairman*

Mr. Goff is an experienced mediator and adjudicator. He served as senior special investigations officer with the Labour Relations Board of B.C. from 1976 to 1984, and as senior labour relations officer with Construction Labour Relations Association from 1984 to 1986. In 1986 he was appointed a vice chairman of the Labour Relations Board of B.C., a position he held until his appointment with the Council.

ARTHUR HALADNER *Vice Chairman*

Mr. Haladner is a graduate of Osgoode Hall Law School who served as legal counsel to the Ontario Labour Relations Board before coming to B.C. in 1975 as Legal Assistant to the then chairman of the B.C. Labour Relations Board. He returned to the Ontario Board on appointment as vice-chairman for three years. He has served as a vice-chairman of the Council on special assignment since 1987.

RICHARD LONGPRE *Vice Chairman*

Mr. Longpre graduated from the University of British Columbia in 1976 with a Bachelor of Commerce degree, majoring in industrial relations. He joined Noranda Mines Limited where over the next four years he negotiated collective agreements and coordinated labour relations policy amongst the Noranda Group of companies in Ontario, the Prairies and British Columbia. In 1981 Longpre joined the Mediation Services Branch of the Ministry of Labour. After three years, he set up an independent labour arbitration and mediation practice. In June 1985, he was appointed a vice chairman with the Labour Relations Board of B.C., a position he held until his appointment with the Council.

HEATHER MCDONALD *Vice Chairman*

Ms. McDonald graduated from U.B.C. in 1979 with an LL.B degree and articled with the Legal Department of the Worker's Compensation Board of British Columbia. After a year of studying administrative and constitutional law in Montreal, she returned to Vancouver where she served as Crown Counsel for the Ministry of Attorney General of British Columbia, and as a consultant to the British Columbia Public Interest Advocacy Centre. In 1983 she joined the Compensation Stabilization Program as legal counsel to the commissioner. In July of 1987 she moved to the Industrial Relations Council where she held the position of legal counsel to the commissioner until her appointment as vice chairman in November of 1988.

ROCHELLE (SHELLEY) C. NITIKMAN *Vice Chairman*

Ms. Nitikman graduated from the University of Manitoba in 1974 with an LL.B degree and articled with the Vancouver law firm of Shrum, Liddle and Heberton. She was employed as a staff lawyer with the Legal Aid Society of British Columbia, established her own law firm practicing family law, and was appointed by the Ministry of Attorney General as a family court advocate. Ms. Nitikman has considerable adjudication experience. In addition to arbitration appointments, she was appointed in 1980 as a chairman of the Workers' Compensation Boards of Review, and in her five year term adjudicated approximately 4000 cases. Prior to her appointment with the Council, Ms. Nitikman was enrolled in the LL.M program at the University of Dalhousie. She is completing her thesis on the subject of industrial relations dispute resolution.

NORA PATON *Vice Chairman*

Ms. Paton graduated from the University of McGill in 1964 with a Bachelor of Nursing degree and from the University of British Columbia in 1976 with a Masters in Education (Adult Education) degree. She has an extensive background in labour relations. Ms. Paton joined the Registered Nurses Association of B.C. in 1969. The labour relations division of the Association subsequently became the B.C. Nurses Union, and Ms. Paton ultimately became its chief executive officer. In her sixteen years with those organizations, she participated in the negotiation and administration of many collective agreements, as well as in the mediation and

arbitral processes. In 1980 she was appointed as a part-time member of the Labour Relations Board of British Columbia. In 1986 Ms. Paton was appointed a vice chairman, a position she held until her appointment with the Council.

EMPLOYER REPRESENTATIVES

CLARE ALCOTT

Former member of the Labour Relations Board and long time MacMillan Bloedel industrial relations executive. For the past decade he has been engaged in an industrial relations consulting service. As well, he has served on the Board of Directors of the B.C. Maritime Employers Association and the Towboat Industrial Relations Association.

ARTHUR BROOMHALL

Former Personnel Manager, B.C. Teachers' Federation, and Personnel Manager, B.C. Hydro (central interior), directing internal employee relations including negotiations, contract administration and grievance processing. He has also served as Director of Personnel, City of Kamloops and before that as Director of Economic Services and Coordinator of Labour Relations, Alberta School Trustees' Association.

PETER RICHARDSON

Former member of the Labour Relations Board with 25 years labour relations experience in the retail and warehousing industry, both food and non-food products, involving both union and non-union employees for Woodwards Stores. He has broad experience in grievance administration including the preparation and presentation of arbitration cases and acting as a member on boards of arbitration.

DUNCAN WILKINS

General Manager of Human Resources, Cominco. Extensive labour relations experience, and chief negotiator for Cominco. He has served on labour relations committees with the Business Council of B.C. and the Mining Association. Also a member of IRMA and Professional Engineers Association of B.C.

EMPLOYEE REPRESENTATIVES

JOHN DONALDSON

Former member of the Labour Relations Board. Served for many years as Business Manager, Teamsters, Local 213. Former Executive Board Member of the B.C. Yukon and Building Trades who also served on the Executive Board of the Allied Hydro Council involved in heavy construction in B.C. including the Peace and Columbia Dams.

MONTE ALTON

After many years of service with the local union of the United Steelworkers of America, he rose to the position of International Representative. Based in Vancouver, he held the office of Area Supervisor (encompassing B.C., the Yukon and Northwest Territories) until his retirement. During this time he also acted as a Vice-President of the B.C. Federation of Labour. During Cominco negotiations in Trail and Kimberley, he became well-known as the Chief Negotiator for the Steelworkers.

JACK ADAMS

Former member of the Labour Relations Board, and Director of Personnel Services, B.C. Government Employees' Union, now retired. He also served as a member of the Executive Council of the B.C. Federation of Labour and has many years experience in labour relations in the Provincial Government service.

JANE GRIMWOOD

Entered the trade union movement in Vancouver becoming a business representative with the Canadian Airline Flight Attendants Association, eventually transferring to Toronto. For some years she served as an investigative officer with the Ontario Labour Relations Board before entering the arbitration field. As a union nominee on arbitration boards she has represented the Labourers' International Union, and adjudicated mini-arbitrations for the United Steelworkers of America. She returned to B.C. in 1986 and remains active in arbitration work.

III STATUTORY AMENDMENTS

The Labour Code was enacted in 1973 and proclaimed in force in several stages throughout 1974. It has been revised many times since then. Some amendments have involved technical refinements only while others have introduced substantive changes. The Labour Relations Board's past annual reports describe the amendments that were made up to and including the year which was the subject of the particular report, and hence this report will not refer to amendments made prior to 1987. Of all the amending legislation, the Industrial Relations Reform Act 1987, S.B.C. 1987, c.24 has introduced the most extensive changes with some 64 sections amending the Labour Code. The title of the Code was changed to the Industrial Relations Act. The Industrial Relations Council was established to continue the adjudicative operations of the Labour Relations Board and to offer interest dispute resolution services as well. A brief summary of the most significant amendments was contained in the 1987 annual report of the Council and interested individuals are directed to that document. There were no amendments to the Act in 1988.

IV PRACTICE AND PROCEDURE BEFORE THE COUNCIL

The Council issued no procedural memoranda in 1988.

DISPOSITION OF APPLICATIONS

Disposition by the registrar: A large number of cases are processed on a strictly administrative basis. A policy has been implemented whereby the registrar may summarily dispose of certain applications. Such applications include:

* simple variance applications involving a change in name or address
* applications under Section 96(1) which cannot be resolved by an investigating officer and should appropriately be referred back to the parties to be dealt with through the dispute resolution mechanism in their respective collective agreements
* decertification applications under Section 52(8) where no persons have been employed in the bargaining unit for the two year period stipulated and the statutory requirements are otherwise met
* applications for decertification under Section 52(2): ordering a representation vote, and, if no unfair labour practice is alleged, cancelling the certification
* applications for deaccreditation which meet the statutory requirements
* applications to withdraw
* applications under Sections 36 and 108 which are out of time and for which no valid argument for untimeliness is presented
* such other applications as lend themselves to summary disposition

Other Dispositions without a Hearing: Other kinds of cases are also processed without a formal hearing. The application or complaint is investigated by an industrial relations officer of the Ministry of Labour who files a report with the Council. This report, together with the parties' submissions, is reviewed by a panel of the Council. If the matter can be decided upon the basis of the materials on file, a decision is made without a hearing.

In cases which are contested, the Council often attempts to achieve a voluntary resolution before proceeding to the stage of a formal hearing and adjudication. This may involve the efforts of an industrial relations officer or special investigating officer, for example. This policy is especially important in the following areas: unfair labour practice complaints, Section 96(1) disputes, and

strikes and picketing complaints. In these areas, the Council achieved a voluntary accommodation in approximately half of the cases.

Hearings: Contested cases which are not settled and which cannot be decided upon the basis of the materials on file will be the subject of a hearing before the Council. With respect to applications for certification for units of unorganized employees, a hearing is always held. Section 43(1) of the Act requires that a representation vote ordered by the Council on a certification application must be conducted within ten days after the date of the application. Accordingly, certification applications must be heard expeditiously by the Council, with objections to the application being raised at the hearing. As well, pursuant to Section 2(5) of the Act, where no collective agreement respecting a unit is in force and a complaint is filed with the Council alleging that an employee has been discharged from employment because of the exercise of a right conferred by the Act, the Council must commence a hearing on the complaint within five days of its filing, unless the complaint is settled or withdrawn before then.

In 1988, the Council held 705 hearings, an increase of 221 over the number held in 1987. Included were 454 expedited certification hearings.

Published Decisions: In contested cases that are unresolved by the parties, the Council's general practice is to give written reasons for its decisions. These formal decisions explain the Council's findings to the immediate parties and lay down general guidelines about the Council's policy and interpretation of the Act. The formal decisions are numbered and are made available to unions, employers, legal counsel and other interested persons.

In addition to its formal decisions, the Council issues decisions in letter format which contain brief reasons or no reasons at all, and which have no precedential value other than to the particular parties to the application.

Decisions which the Council believes will constitute important precedents for the future are published in a series entitled the Canadian Labour Relations Boards Reports (New Series), which is published by Butterworth & Co. (Canada) Ltd.

V HIGHLIGHTS OF COUNCIL DECISIONS

Secondary Boycott Agreements

Section 4.1 of the Act, reads as follows:

> 4.1 (1) An express or implied provision of an agreement between an employer and a trade union by which the employer ceases or refrains, or agrees to cease to refrain from handling, using, buying, selling, transporting or otherwise dealing in the products of another employer or to cease doing business with another person is void.
>
> (2) No employer and no trade union shall include in any agreement a provision that is, under subsection (1), void.
>
> (3) A provision of an agreement is not void by reason only that it recognizes the right to refuse to cross a picket line.

In Pacific Press Limited -and- Vancouver-New Westminster Newspaper Guild, Local 115 et al. No. C6/88, the Council was considering an application from an employer to reconsider an earlier decision which had dismissed its request for a declaration that a clause in its collective agreement with the unions was void. The clause reserved to union members the right to refuse to execute work coming from or destined for any employer or publication declared by the unions to be unfair. The unions had declared Canada Post Corporation to be unfair. The employer argued that any such refusal of work would constitute a strike as defined by the Act. In previous applications by the employer, the former Board had rejected the same argument. On judicial review the Supreme Court had upheld the Board's decision, although the Court had disagreed with the decision, finding that the Code's definition of a "strike" was sufficiently explicit to prohibit work stoppages as a result of hot or unfair declarations, even where permitted by a collective agreement. Upon reconsideration the employer argued that the original panel erred in law by not adopting the interpretation of the Court as a superior tribunal. The employer also argued that as the definition of a "strike" was not the subject of recent amendments, the Legislature intended the Court's interpretation to prevail. Finally, the employer argued that the legislative amendments included a prohibition of any express or implied agreement between an employer and a union by which the employer refuses to deal with the products of another employer, or to do business with another person.

The Council dismissed the employer's application for reconsideration. The Court's refusal to quash the Board's decisions regarding the definition of a "strike", indicated that the Board's interpretation was rationally supported by the law, and may be adopted by the Council despite the Court's preference for another interpretation. The unchanged definition of "strike" was not evidence that the Legislature intended the Court's interpretation to prevail, as it was also arguable that the Legislature intended to respect the Board's interpretation of "strike". However, part of the provision of the collective agreement amounted to an implied agreement by the employer with the unions to cease doing business with another

person. "Person" was defined by the Act not to include those whose collective bargaining was regulated by the Canada Labour Code, R.S.C. 1970, L-1. Therefore the provision was only void to the extent that it purported to give union members the right to refuse to do work coming from or destined for persons whose collective bargaining was not regulated by the Canada Labour Code. The unfair declaration in this case was with respect to Canada Post Corporation, whose collective bargaining was regulated federally, and thus it was enforceable despite the terms of the secondary boycott provisions contained in the collective agreements.

Successorship - Section 53

In Keadd Holdings Ltd (Carrying on Business Under Name and Style of Thrifty Foods) -and- United Food and Commercial Workers' Union, Local 2000, No. C42/88, 18 C.L.R.B.Rep. (N.S.) 155, the Council provided its first significant interpretation to the newly amended Section 53 of the Act which reads as follows:

> 53. (1) Where a business or a substantial part of it is sold, leased, transferred or otherwise disposed of, the purchaser, lessee or transferee is bound by all proceedings under this Act before the date of the disposition, and the proceedings shall continue as if no change had occurred; and where a collective agreement is in force, it continues to bind the purchaser, lessee or transferee to the same extent as if it had been signed by him.
>
> (1.1) For the purposes of this section, the skills or abilities of an individual do not of themselves constitute a business.
>
> (1.2) For the purposes of this section there is not a sale, lease, transfer or other disposition of a business by a person (referred in this subsection as the "former business entity") by reason only of the fact that another person performs similar functions as the location previously occupied by the former business entity.

The union requested the Council to reconsider a Labour Relations Board decision which dismissed its application to have Thrifty Foods declared the successor to Safeway under Section 53. Safeway had operated a retail supermarket in Victoria for many years. The operation lost money and Safeway closed down the store, removing all its stock and most of its equipment. All logos and other markings which identified the premises as a Safeway store were painted over, and the Safeway employees who had worked at that location were transferred to other Safeway stores in the city. Thrifty Foods leased the same premises, spent approximately $150,000 on renovations, and purchased new stock before opening a retail supermarket outlet at the location.

The Council observed that the successorship provisions of the Act, as amended in 1987, required the Council to find that a business or a substantial part of it was disposed of before a declaration of successorship could follow. Only if assets were of such consequence as to constitute a substantial part of the business would they be determinative in a successorship case. The "discernible business continuity" test used by the Labour Relations Board in successorship cases had also been modified by the 1987 amendments to the Act; the test now demands a manifestation of the predecessor's entire business or of a substantial part of it. While the term "business" was elusive, no single factor was independently determinative of whether a business disposition had occurred. Finally, the 1987 amendments were explicit that there would not be a business disposition by reason only of the fact that another person performed similar functions at a location previously occupied by a former business entity. The Council noted that in this case the only factor of substance common to both Safeway and Thrifty Foods was that both companies had operated retail food stores at the same location. Thus it concluded that the Board had not erred in finding that Safeway's business did not continue in any recognizable form at the Victoria location at issue. The Council emphasized that no principle had been created to the effect that a successorship cannot occur when a business is sold to a competitor who runs a similar undertaking at the same location. Section 27(1) of the Act now requires the Council to recognize "the desirability for employers and employees to achieve and maintain good working conditions as participants in and beneficiaries of a competitive market economy." The Council stated that this phrase is not a signal to the business community that one enterprise may subsume the whole or a substantial part of a competitor's business, whether at the same location or not, free of successor rights and obligations. To the contrary, as participants and beneficiaries of a competitive market economy, the successor employer and the employees in the on-going business must relate to each other according to the conditions of the collective agreement signed by the predecessor employer and the trade union representing the employees. However, where there is no disposition of a predecessor's business (or a substantive part of it) to a competitor, there is no justification in a competitive market economy for successor rights and obligations to apply. The Council stated that the protection afforded employees through the medium of Section 53 simply does not run that far.

Timeliness of "raid" applications

The Act provides employees with the opportunity to replace their bargaining agent with another union. The process of bringing about this change is colloquially referred to as a "raid." Subsections 39(2), (3) and (6) of the Act set out the time when such raids can lawfully occur. These subsections, in part, read as follows:

> 39. (2) A trade union claiming to have as members in good standing a majority of employees in a unit appropriate for collective bargaining may, subject to the regulations, apply to the council to be certified for the unit where ...
>
> (b) a collective agreement is in force, only during the period.

> (3) Notwithstanding subsection (2), where
>
> (a) one or more applications have been made during a period, regardless of the outcome;
>
> ... a trade union may not apply to be certified for that unit ... until the second period after the date of the application ...
>
> (5) Two or more trade unions claiming to have together as members in good standing a majority of employees in a unit appropriate for collective bargaining may join in an application under this Part, and the provisions of this Act relating to an application by one trade union, and all matters or things arising from it, apply to the application and those trade unions as if one trade union were applying.
>
> (6) In this section "period" means the seventh and eighth months in each year of a collective agreement or a renewal or continuation of it.

In Westmin Resources Limited -and- International Union of Operating Engineers, Local 115 and Tunnel and Rock Workers Union, Local 168 and Canadian Association of Industrial Mechanical and Allied Workers, Local 19, No. C69/88, the Council was asked to consider the timeliness of a joint raid in November 1987 under Subsection 39(2) and 39(5) by the Operating Engineers and Tunnel and Rock Workers (together, the "raiding unions") upon the certification held by C.A.I.M.A.W. at the Westmin site in Campbell River. The raiding unions raided in April 1986, but lost the resulting representation vote to C.A.I.M.A.W. That raid attempt occurred, following Subsection 39(6), during the seventh and eighth months of a year of the collective agreement between Westmin and C.A.I.M.A.W. which ran from 1 October 1983 to 31 August 1986. The proper raid period was April and May of each year of the collective agreement or renewal or continuation of it. This unsuccessful raid activated Subsection 39(3), requiring that the next timely raid not occur until the second period after the 1986 raid. Meanwhile, the collective agreement continued beyond its 31 August 1986 expiry date by virtue of a continuation clause in the agreement. On 5 April 1987 C.A.I.M.A.W. and Westmin reached a new collective agreement made retroactive, not to the expiry date of the old collective agreement, but to 1 April 1987. In November 1987 the raiding unions again made a raid application to the Council.

The Council found that raid application to be untimely. Drawing upon the Legislative intent in Subsections 39(3) and 39(6) to keep successive raiding periods two years apart so as to minimize instability in the bargaining relationship, the Council determined that a minimum of 22 months must elapse from the end of a raid period when a timely application was made (i.e., April and May 1986) and the start of the period when raids again would be timely (i.e., April and May 1988). If at that time the collective agreement then in force is not in its seventh or eighth month, the raiding union must wait until the next seventh and eighth month of the collective agreement before raiding. In this case the seventh and eighth months of

the collective agreement which began on 1 April 1987 would have been October and November 1987. However, because October and November 1987 were within the 22 months immediately following the unsuccessful April 1986 raid, the raiding unions would have to wait until October and November 1988 for the period when a raid would be timely.

The Council's decision was upheld on judicial review in the Supreme Court of British Columbia [(5 August 1988) Vancouver A881153 (B.C.S.C.)]. That decision is currently under appeal to the British Columbia Court of Appeal.

The Council next was asked to determine whether the time bar contemplated in Subsection 39(3) was brought into effect by the raiding union's untimely raid application of November 1987. The Council determined that all prerequisites of Subsection 39(3) were met, thus making the time for the next timely raid October and November 1989. This decision of the Council was overturned on judicial review [(15 December 1988) Vancouver A882838 (B.C.S.C.)]. This decision is also under appeal to the British Columbia Court of Appeal.

The Duty of Fair Representation Owed by Unions to Their Members - Section 7

In Linda Sanders -and- Retail Clerks Union, Local No. 1518 and Canada Safeway Limited, No. C114/88, the Council upheld and clarified its decision in C128/87. The original decision considered the addition of Subsection 7(3) to the Act in 1987. Section 7 reads, in part, as follows:

> 7. (1) A trade union or council of trade unions shall not act in a manner that is arbitrary, discriminatory or in bad faith in representing any of the employees in an appropriate bargaining unit, whether or not they are members of the trade union or of a constituent union of the council of trade unions ...
>
> (3) A trade union, a council of trade unions ... shall carry out its function of representation referred to in this section in a fair and lawful manner.
>
> (4) A person who considers that a trade union, a council of trade unions...is contravening or is about to contravene this section may apply to the council for a remedy under Section 28.

Ms. Sanders was disciplined by Safeway for the conflict of interest created by Ms. Sanders operating her own flower business at home while employed to sell plants and flowers at a Safeway store. A grievance was launched contesting the four day suspension Ms. Sanders received. The union ultimately settled the grievance by agreeing to a two day suspension, based on the conclusion that this reflected the

likely result from an arbitration of the matter. The Council, however, found that the union had not fully investigated the exculpatory facts of Ms. Sanders' case, thus breaching Section 7 of the Act.

In the course of the Council's reasons the addition of the word "fair" in Subsection 7(3) was fully discussed; the Council left for another day consideration of the word "lawful" in Subsection 7(3). The Council stated that, as a result of the 1987 amendments, the duty of fair representation in Section 7 has been accentuated. This new emphasis was not so much a result of the amendments to Section 7. But when read together with the amendments to Section 27(1) (the "purposes and objects" provision of the Act), the rights of individuals have now been given a prominence that was hitherto reserved for the rights and obligations of the parties and the public interest. Inasmuch as the various provisions of the Act are to be interpreted against the backdrop of Section 27, it follows, the Council stated, that provisions of the Act such as Section 7 that bear upon individual rights are reinforced; a new significance is imparted to them. As a consequence of this direction by the Legislature, the Council considers itself under an even more serious obligation than before to ensure that the rights of individuals are not damaged by union conduct. On a case by case basis, in light of the new emphasis on individual rights, the Council will more closely examine union conduct and may be prepared to find a breach of the statutory duty of fair representation in circumstances where the former Labour Relations Board, perceiving itself as lacking a similar specific direction from the Legislature, might not have found.

The Council also considered whether the addition of the word "fair" in Subsection 7(3), in conjunction with the new stress on the rights of individuals in Section 27(1) of the Act, raised the standard of care due from a union to a level requiring unions not to be negligent in their representation of individual employees. The Council approved of past jurisprudence of the Labour Relations Board and other labour relations administrative tribunals across Canada establishing that a union's conduct must be characterized as grossly or seriously negligent before the conduct will be found to breach Section 7. However, the Council did state that the concept of gross or serious negligence may, as a result of the amendments to Sections 7 and 27, be expanded in future cases to encompass conduct which, in the past, fell short of being culpable negligence.

Standing

In Marian Regional High School Education Committee -and- Catholic Secondary School Teachers Association -and- Parents' Association of Marian Regional High School, No. C170/88 (reconsideration of No. C168/88), the Council was asked to reconsider its decision to deny the Parents' Association interested party status in a case where the union was alleging that the employer had committed an unfair labour practice by closing the school operations during collective bargaining.

The original panel held that much of the evidence that the Parents' Association intended to present was irrelevant to the dispute and that, to the extent that the parents had relevant evidence concerning the course of negotiations between the parties, that fact was insufficient to grant standing. Were it otherwise, every witness with material evidence could argue that she should have standing. The

panel cited its authority to determine practice and procedure under Section 21 of the Act and recited the test for standing contained in Tumbler Ridge Contractors, B.C.L.R.B. 65/82:

> ... interested party status (will) only be granted if the party applying can successfully argue that its interests would be affected in direct and material way (and in more than an incidental manner) by the outcome of the proceedings.

The original panel emphasized that "material" means "material to the essence of the dispute."

In the case at hand, "material" related to whether or not the employer had contravened the Act. The original panel emphasized that merely because someone is affected by a dispute does not, in and of itself, confer standing before the Council.

The reconsideration panel dismissed the Parents' Association's application to overturn the original panel's decision. It noted that Section 27 of the Act obliged the Council to have regard to the rights of individuals and the public interest as well as the rights and obligations of the parties before it. However, the reconsideration panel observed that the interests of the public and the rights of individuals must be material to the matter which is before the Council. The original panel was correct to draw a distinction between the effect of the labour dispute and the material issue: whether or not there was a breach of the Act?

Section 66(1.1) - Cancellation of a Collective Agreement

In BCE Development Corporation (Formerly Known As Daon Development Corporation Ltd) -and- British Columbia and Yukon Territory Building and Construction Trades Council and British Columbia Provincial Council of Carpenters, No. C269/88, the Council considered the Subsection 66(1.1) of the Act added in the 1987 amendments. That Subsection provides as follows:

> 66. (1.1) Where an employer has not employed a person as an employee in a unit for a period of 2 years, any collective agreement applicable to that unit shall be deemed to be terminated upon the expiry of the 2 year period.

BCE Development signed a Letter of Understanding with the Carpenters in October 1979, along with a working agreement with B.C.Y.T. adopting the B.C.Y.T. Master Agreement. By these agreements, BCE Development voluntarily recognized the unions as the exclusive bargaining agent for its employees in the construction industry. Since October 1979 BCE Development has acted as a developer in the construction industry and thus has not directly hired employees for its construction projects. Instead, the work has been performed through unionized general contractors.

The Council was asked to consider whether, pursuant to Subsection 66(1.1), the collective agreements with the unions and the voluntary recognition collective

bargaining relationships with those unions were now at an end. The Council was asked by the unions in interpreting Subsection 66(1.1) to apply the jurisprudence applicable to the cancellation of a union certification in the construction industry when the employer has not employed any person in the bargaining unit during the immediately preceding two years. That jurisprudence considered what is now Subsection 52(8.1) of the Act which reads as follows:

> 52. (8.1) Where ... the council is satisfied that the employer has not, during the 2 years immediately preceding the application, employed any person as an employee in the bargaining unit and that the conduct of the employer is in the circumstances of the matter fair and reasonable, the council shall cancel the certification.

The unions suggested that the Council should either imply the "fair and reasonable" proviso found in Subsection 52(8.1) to an application under Subsection 66(1.1) or interpret the word "employed" in Subsection 66(1.1) in the same manner as that word was interpreted under the predecessor to Subsection 52(8.1). In either event, BCE Development's application under Subsection 66(1.1) would be denied. The Labour Relations Board had interpreted the predecessor to Subsection 52(8.1) so that employers were taken to have "employed" persons within the bargaining unit if the employer "caused the employment" of such persons. Further, causing such employment constituted conduct by the employer that was deemed unfair or unreasonable, thus justifying denial of the employer's application. The Labour Relations Board adopted this interpretation of what is now Subsection 52(8.1) in order to prevent employers in the construction industry from divesting themselves of the collective bargaining obligations by simply contracting out their work for a period of two years while remaining active in the construction industry. The underlying rationale for this position can be found in Wall and Redekop Corporation, B.C.L.B.Rep. No. 198/85, 10 C.L.R.B.R. (N.S.) 42 and B.C.L.R.B. No. 174/86.

The Council acknowledged the concerns which gave rise to the Labour Relations Board's interpretation of what is now Subsection 52(8.1) and the necessity to avoid the unhappy scenarios at which the interpretation was directed. Further, the Council agreed that in most circumstances it would be consistent with the purposes and objects of the Act set out in Section 27 to apply the Act in the same way to voluntary recognition arrangements as to certifications. However, in light of then recent pronouncements from the Courts concerning the Council's inability to stray from the plain meaning of the words in the Act, the Council concluded it was unable to give Subsection 66(1.1) the extended meaning sought by the unions. Indeed, one such Court decision precludes the Council from according certified and voluntary bargaining relationships equal treatment under the Act. (See: British Columbia and Yukon Territory Building and Construction Trades Council v. Cairns Electric Ltd et al. (1988), 27 B.C.L.R. (2d) 164 (S.C.).

In the result, the Council determined that the collective agreements between BCE Development, the Carpenters and B.C.Y.T. were deemed terminated pursuant to a plain reading of Subsection 66(1.1). However, the Council also concluded that a bargaining relationship based on voluntary recognition, and rights and obligations flowing therefrom, may endure beyond the demise of the collective agreement. The

tacit premise underlying our system of collective bargaining is that both the employment status and collective bargaining relationship will persist through one collective agreement after another. Indeed, the Labour Relations Board had long accepted the proposition that there could be a continuation - although not into perpetuity - of obligations in a relationship based on voluntary recognition notwithstanding the expiration of a collective agreement produced by that relationship.

The Council concluded, however, that it was prevented from determining whether the bargaining relationship was also at an end by virtue of the Supreme Court of British Columbia's decision in British Columbia and Yukon Territory Building and Construction Trades Council v. Cairns Electric Ltd et al. (1982), 27 B.C.L.R. (2d) 164 (S.C.).

Craft and All-Employee Bargaining Units in the Construction Industry

In the Cicuto and Sons Contractors Ltd decision, No. C271/88, the Council offered guidance on important issues which were causing instability in the construction industry. The facts in the case concerned an application for certification by a "generic" union of a "wall-to-wall" or all-employee bargaining unit of an employer involved in the construction business. There were seven employees in the unit, one a member of the Operating Engineers, and six members of the Labourers. The Carpenters were also certified to the employer, which had a voluntary recognition relationship with the Ironworkers as well; however, no members of these latter two unions had worked for the employer for several months. The application of the all-employee unit failed for lack of adequate membership support. However, the Council undertook a reconsideration of the original panel's analysis of the situation, focussing on four issues:

1. Did the original panel err in not applying Section 41 to the case?

The Council found that the original panel erred. The existing bargaining units of the employer were craft units and were protected by Section 41(2) of the Act--they could only be absorbed into another unit if a majority of the employees in each unit voted in favour of the all-employee certification.

The Council observed that Section 41 stands as a permissive exception to the general provisions which apply to the certification process, and must be narrowly construed. Section 41 does not dictate that a craft unit is appropriate in every case where a union applies thereunder. Whether a more broadly based certification ought to be preferred is a matter which is left to the Council to determine. Where a craft unit is sought, there are three tests that arise which will guide the Council in arriving at a decision:

a) The Council must determine whether the affected employees belong to a craft such that the group of employees is distinguished from the employer's other employees.

b) The Council must determine whether the applicant union is one pertaining to the particular craft.

c) The Council must be satisfied that the proposed craft unit is "... otherwise an appropriate unit." Under this third test, the Council will engage in the same enquiry that is undertaken for any application for certification. Since 1959, there have been standardized craft bargaining unit descriptions. Unless and until the Council changes the practice of using standardized craft unit description, this third test is satisfied in every construction craft union certification application by ensuring that the description of the proposed craft unit conforms with the relevant standardized unit description.

2. Should the original panel have treated the application for certification as a raid, thus regulated under Section 39(2) of the Act?

The Council found that the application for an all-employee unit did not constitute a raid under Section 39(2), but did constitute a raid under Section 41(2) of the Act. Section 41(2) modifies Section 39(2) to recognize as a raid a form of application which would not otherwise be treated as a raid. To succeed in its application to be certified for an all-employee unit, the generic union would need:

a) membership support of a majority of the employees in each of the existing craft units which were to be absorbed into the all-employee units, and

b) membership support of 45% of the employees who were not members of an existing unit certified by a craft union, and

c) to bring its application for certification within a period of time spanning the seventh and eight months of any collective agreements in force between the employer and the craft unions.

3. Did the original panel err in concluding that an all-employee bargaining unit may be appropriate in the construction industry?

The Council stated that craft units are appropriate units in the construction industry, but they are not the only appropriate structure - all-employee units may be appropriate as well. The growth in the interest of workers opting for all-employee certification is not unjustified, but rather reflects the many changes in the construction industry including high unemployment and competitive pressures. All-employee units may not be appropriate in every case. Unfortunately, the amoebic nature of the construction industry is not conducive to a neat checklist of situations in which the Council will find all-employee units to be appropriate. The Council described the following factors as considerations for determining the appropriateness of proposed bargaining units in the construction industry:

a) The use of standardized craft bargaining unit descriptions.

b) The freedom of choice of workers is not in itself determinative when assessing the appropriateness of a bargaining unit, whether the proposed unit is craft or all-employee in character.

c) The considerations behind the preference for large, integrated bargaining units are present in the construction setting, but they must be tempered with other considerations which are unique in the construction environment.

d) Non-affiliation clauses and their effects on industrial stability in construction must be monitored by the Council.

e) Craft unions are not precluded from participation in the representation of construction workers by means of all-employee units. A craft union has three clear options: apply for the standardized craft unit to which it pertains; participate in applications for a poly-party unit; or, apply for an all-employee unit.

f) The Council will consider the application of the build-up principle when assessing the appropriateness of all-employee units in construction, although it may be necessary to modify the principle so that it fits the construction setting.

g) When considering applications for certification from generic unions, the Council's focus is on the appropriateness of the proposed bargaining unit, not on the appropriateness of the applicant union.

h) Regarding voluntary recognition agreements involving employees in the construction setting, trade unions (be they generic or craft) should not assume that the Council will sanction top-down organizing. The Council must be satisfied that proper and adequate processes have been used to protect workers' democratic rights.

4. Did the original panel err in not requiring the generic union to organize and gain the requisite membership support among members of the Carpenters and the Ironworkers?

The Council concluded that the original panel had taken the correct approach: it asked whether there were other workers which had a reasonable expectation of recall by the employer, arising out of a sufficient, continuing interest in the bargaining unit. That analysis produced ten additional employees, none of whom were members of the Carpenters or Ironworkers. The Council stated that bargaining units which exist in form only, with no employees to give them substance, cannot be a bar to a certification of a larger and inclusive unit satisfying the specific requirements of the Act.

Interim Relief

Section 28 of the Act, which provides the Council with broad remedial powers, was amended in July, 1987 by the addition of subsection (5) which reads:

> Where an application or complaint is made to the council under this section and the council considers that it should be treated as a matter of urgency, the council may, after giving each party to the matter an opportunity to be heard, make an interim order.

In White Spot Restaurants Limited -and- Food and Service Workers Local No. 112 of Canadian Association of Industrial Mechanical and Allied Workers No. C274/88, the union asked the Council for interim relief to prevent the employer from announcing further closures of its restaurants, and from communicating with the employees about matters yet to be discussed between the parties at the bargaining table. The union's application was made during a strike between the parties in which the employer had already announced the closure of one of the restaurant operations at which the union was certified as bargaining agent.

The Council described its discretion to grant interim relief in these terms:

> The Council's discretion is fettered only to the extent that we must be satisfied the matter should be treated with some urgency beyond our ability to hold an expeditious hearing into the merits of the application. We will exercise our discretion only in rare and exceptional circumstances, applying the following kinds of criteria. First, an adequate remedy would not be available to the applicant upon conclusion of the hearing into the merits of the case without an interim order. That is, the applicant must show an imminent and irreparable harm. Second, the interim relief sought need not be the permanent relief sought; however, there must be a strong link between the alleged breach of the Act, the consequences which flow from that breach, and the interim relief sought (See, Re: National Bank of Canada and Retail Clerks International Union et al. (1984) 9 D.L.R. (4th) 10 (S.C.C)). Third, the applicant must establish that its claim is neither frivolous nor vexatious. In most cases, this would require a prima facie case be established. Fourth, the interim order must not penalize the respondent in a manner so as to prevent appropriate redress to the respondent in the event the application fails on its merits. Fifth, the application must show that the interim order is consistent with the purposes and objects of Section 27 of the Act. The Council will not exercise its discretion, absent a critical labour relations purpose nor where an interim order will, in the effect, grant the entire remedy sought by the applicant or the balance will otherwise be tipped in the favour of one party.

The Council did not grant an interim order preventing the employer from closing other restaurants; this was a matter that, if appropriate, could be remedied at a later date. However, the Council was satisfied that the employer's method of announcing closure of its restaurants was having an unnecessary and de-stabilizing effect on the collective bargaining process between the parties. Accordingly, an order was granted requiring the employer to disclose to the union, in writing, its intention to close any more restaurants. It was consistent with Section 27 of the Act and the continuing collective bargaining relationship between the parties that the employer give the union such basic information.

See also: B.C. Transit -and- Transit Management Association No. C317/88, wherein the Council granted an interim order to the Association. The order maintained the terms and conditions of Association members' employment, pending a hearing into the Association's application for certification and applications related thereto.

Hard Bargaining and the Closure of Employer's Operation - Unfair Labour Practices?

In Marian Regional High School Education Committee -and- Catholic Secondary School Teachers Association, No. C213/88, (upheld on reconsideration in No. C295/88), the Council was asked by the union to find that the employer had unlawfully locked out the teachers and had committed an unfair labour practice in closing its school operation after negotiations for a first collective agreement broke down. The union also alleged that the employer had breached the duty to bargain in good faith by insisting upon the inclusion of a "Catholicity clause" in the collective agreement. The Council dismissed the union's applications.

The Council found that the employer's decision to close the school was irrevocable, not done to compel the union to agree to employment terms and conditions; hence the closure did not constitute a lockout.

The Council observed that there is a distinction between "hard bargaining" and "surface bargaining." An inference may be drawn that a party is merely surface bargaining if it has adopted an inflexible position on issues central to negotiations. But in this case, the evidence did not support the inference that the employer's insistence on a "Catholicity clause" was intended to frustrate the negotiations. Rather, the evidence revealed that the employer had fully explained its reasons for taking the position, and that the employer was prepared to negotiate a collective agreement. Both parties had adopted a hard bargaining stance. There is no requirement under the Act that the result of collective bargaining must be an agreement.

The "Catholicity clause" proposed by the employer was not an "illegal" proposal. There was a potential for conflict between the clause and the Act's requirement for mechanisms to resolve disputes arising during the course of a collective agreement. However, the Act is sufficiently flexible to contemplate dispute resolution mechanisms other than arbitration, and the parties may have been able to devise an acceptable solution. The Council was loathe to interpret the Act as requiring that a neutral third party determine Catholic denominational standards within the Archdiocese.

The Council concluded that the employer's decision to close the school was made only after it became convinced that the union was not prepared to back down from its rejection of the "Catholicity clause" proposed by the employer. If the employer had not intended to conclude a collective agreement, it would not have made the efforts to obtain the union's agreement to the clause which it considered so fundamental to the school operation.

VI JUDICIAL REVIEW

Following is a list of court cases decided in 1988 which reviewed decisions of the Council. The list does not include court cases which reviewed decisions of the Labour Relations Board.

1. Teamsters, Local 213 v. United Contractors Ltd (4 February 1988), Vancouver A872655 (B.C.S.C).

The union sought to set aside an order of the Council which declared that the union had violated Section 79 of the Industrial Relations Act. The union alleged the Council lacked the jurisdiction to make the order. The union's application was dismissed as it had failed to exhaust its remedies under Section 36 of the Act.

2. U.F.C.W., Local 1518 v. Linda Sanders and Industrial Relations Council and Canada Safeway Ltd (10 February 1988), Vancouver A880226 (B.C.S.C.).

The applicant sought a declaration that the dispute was regulated by Section 7(1) of the Labour Code rather than Section 7 of the Industrial Relations Act. The applicants also sought an injunction to restrain the Council from continuing a hearing to determine the remedy in Sanders' complaint. The petition and application for injunction were dismissed with oral reasons.

3. Health Labour Relations Association of British Columbia and HLRA Health And Benefit Trust v. Industrial Relations Council and H.E.U., Local 180 and Pauline Marshall (9 March 1988), Vancouver A880308 (B.C.S.C.).

The Petitioners sought an order to stay the Council from pursuing its inquiry under Section 36 until the Court of appeal rendered its decision in the parties dispute. The subject of the inquiry arose out of a judgment which was then under appeal before the Court of Appeal. The Court held that if the Council proceeded with the investigation there was the possibility of a conflict between its ruling and the judgment of the Court of Appeal. The Council was enjoined from further inquiring into the dispute until the views of the Court of Appeal were obtained.

4. Pacific Press Limited v. Vancouver-New Westminster Newspaper Guild Local 115 (1988) 26 B.C.L.R. (2d) 223 (S.C.).

In 1984 the Labour Relations Board ruled that the Respondent unions were not striking when they had refused to handle "hot" material presented to the Petitioner for publication. On judicial review, the Court found that the Board had erred in its interpretation of the Labour Code, but it upheld the Board's decision, finding that the errors were not "patently unreasonable" so as to justify intervention by the Court. In 1987, the same unions refused to handle other "hot" advertising copy. The Board issued a declaration that the unions were not engaged in a strike, repeating the "mere error" in its previous interpretation of the Code. The Council confirmed the Board's decision upon reconsideration. The Petitioner's application

for judicial review was dismissed on the basis that the matter had been already decided by the previous decision of the Court, and that the Council's decision was not patently unreasonable.

5. B.C.G.E.U. v. Industrial Relations Council, Government of British Columbia and Attorney General for British Columbia (Intervenor) (1988) 26 B.C.L.R. (2d) 145 (C.A.).

The Council's decision to restore an arbitrator's award previously set aside by the Labour Relations Board was in turn quashed by the Supreme Court. The Council appealed. The union applied to quash the Council's appeal on the ground that it did not have standing to make submissions concerning the merits of its own decision. The Court dismissed the union's application and found that, when the issue becomes whether the Council's decision is patently unreasonable, there are powerful policy reasons in favour of permitting the tribunal to make submissions, in particular due to its special expertise in the area.

6. Nelles and Parents' Association of Marian Regional High School v. Industrial Relations Council (16 June 1988), Vancouver A881729 (B.C.S.C.).

The Petitioner sought judicial review of a decision of the Council which refused standing to the Parents' Association of Marian Regional High School at the hearing of a complaint by the Catholic Secondary School Teachers' Association alleging unfair labour practices by the employer. The petition was dismissed on the basis that the Council's decision was not patently unreasonable and that there was no denial of procedural fairness.

7. H.E.U., Local 180 v. Raychester Manor Inc., Operating as Malaspina Lodge and Sunshine Inn Ltd and Industrial Relations Council (16 June 1988), Vancouver A881626 (B.C.S.C.).

The union sought to quash a decision of the Council to consider the employer's application for a final offer vote. The Court dismissed the petition and the application for interlocutory relief, stating that the Council clearly had the jurisdiction to entertain the employer's application. The Court recognized that the union may not be optimistic or happy about proceeding before the Council, but stated that it must presume that the Council would act according to law.

8. I.U.O.E., Local 115 and L.I.U.N.A., Local 168 v. Canadian Association of Industrial Workers, Local 19 and Westmin Resources Ltd and Industrial Relations Council (5 August 1988), Vancouver A881153 (B.C.S.C.).

The Petitioners sought to set aside a decision of the Council which interpreted the sections of the Act concerning raid applications. The Court dismissed the application, finding that since the Council's interpretation of the provisions in question was rationally supportable by the relevant legislation, the interpretation was not patently unreasonable.

9. I.C.T.U., Local 1 v. Vancouver Home Support Society and Industrial Relations Council (13 September 1988), Vancouver A881731 (B.C.S.C.).

The original panel of the Council had found the Vancouver Home Society a successor to the Richmond Volunteer Transport Society. The reconsideration panel of the Council disagreed. The union alleged that the reconsideration panel denied it a fair hearing, erred in law on a preliminary jurisdictional issue and was patently unreasonable in deciding that no successorship existed. The Court dismissed the union's petition for judicial review, declaring that it is the Council's exclusive jurisdiction to decide whether or not a successorship exists and that there was no patently unreasonable error in the reconsideration panel's decision. The Court found no evidence that the reconsideration panel had denied the union a fair hearing.

10. B.C.G.E.U. v. Industrial Relations Council and Government of British Columbia; B.C.G.E.U. v. Government of British Columbia and Industrial Relations Council and A.G. British Columbia (27 October 1988), Vancouver CA008881 (B.C.C.A.).

The Council's appeal of the British Columbia Supreme Court ruling that the Council's decision was patently unreasonable was dismissed. The Council had restored an arbitration award which held that there is not an automatic severance of employment upon disposition of a business to which Section 53 of the Act applies.

11. U.A., Local 170 v. Industrial Relations Council, Western Versatile Construction Corporation, Independent Employees' Association (12 December 1988), Vancouver, A882807 (B.C.S.C.).

The Petitioners sought an order quashing the Council's decision to entertain a "no evidence" motion without requiring the applicant on the motion to elect not to call further evidence in the event the motion was unsuccessful. The Court dismissed the union's petition, holding that the Council's decision was not patently unreasonable and did not breach the rules of natural justice.

12. C.A.I.M.A.W., Local 19 v. I.U.O.E., Local 115, and L.I.U.N.A., Local 168, Westmin Resources Limited and Industrial Relations Council (15 December 1988), Vancouver A882838 (B.C.S.C.).

The Council's decision that the raiding unions were entitled to raid in October and November 1988 notwithstanding an untimely raid in November 1987, was quashed by the Court as a patently unreasonable interpretation of the relevant statutory provisions. This decision is currently under appeal.

13. L.I.U.N.A., Locals 602, 1070 and 1093 v. Armeco Construction Ltd and S.G.M. Construction Ltd and Industrial Relations Council of British Columbia and A.G. British Columbia (22 December 1988), Vancouver A881155 (B.C.S.C.).

The Board and Council had issued decisions that, even though the notice provisions of a collective agreement were not complied with, the deemed notice provided for in subsection 62(4) constituted notice in fact and prevented extension of the agreement in accordance with its terms. The Court dismissed the petition for judicial review holding that the decisions were not patently unreasonable.

VII CASELOAD

With the proclamation of the Industrial Relations Reform Act, 1987 on July 27, 1987, the Labour Relations Board was replaced by the Industrial Relations Council. At the same time, the Council assumed responsibility for the provision of mediation services (formerly offered by the Ministry of Labour). In describing the tribunal's caseload during 1988, the Disputes Resolution Division will again be examined separately from the Adjudication Division. The statistical assumptions upon which caseload data are based are described on page 53 as a preface to the Appendix of Statistical Tables.

ADJUDICATION DIVISION

A. 1987-88 Comparisons

In 1988, the Council received a total of 3695 applications and disposed of 3614 applications. As explained in the preface to the Appendix of Statistical Tables, the statistical base for counting strike and lockout observer appointments was changed in 1988 and a new category, applications for interim orders, previously unreported, has been added.

Applications Filed

In 1988, applications filed with the Council increased from 1987 in 13 of the 28 categories, illustrated in Table 1, for which comparisons can be made:

applications for an order prohibiting a secondary boycott (700%), for an "offer last received" vote (277%), regarding strike, lockout or picketing activity (105%), for religious exemption (73%), for certification (62%), to alter the terms and/or conditions of employment (50%), for the appointment of an arbitrator (37%), to vary a certification (36%), to cancel a certification (25%), alleging unfair labour practices (2%) regarding freedom of association (from 0 to 6), to appoint a fact finder (from 0 to 2), and for accreditation (from 0 to 1).

Applications filed with the Council decreased from 1987 in 14 categories illustrated in Table 1:

applications for essential service designations (94%), to cancel an accreditation (75%), for the appointment of an officer to settle a grievance (73%), for a common employer declaration (70%), regarding an alleged failure to execute or comply with a collective agreement (66%), classified as miscellaneous (65%), for a declaratory opinion (excluding declaratory opinions pertaining to Part 5 of the Act) (47%), to vary an accreditation (42%), regarding alleged unlawful alteration of employment terms and conditions (38%), for an interpretation of the legislation as it applies to the collective bargaining relationship (37%), for a successor status declaration (24%), for reconsideration of a decision (24%), to cancel a voluntary recognition collective agreement (12%) and to review an arbitration award (11%).

One category remained unchanged:

applications for first contract arbitration.

Applications Disposed Of

In 1988, applications disposed of by the Council increased from 1987 in 12 of the 28 categories, illustrated in Table 1, for which comparisons can be made:

applications for an order prohibiting a secondary boycott (300%), for an "offer last received" vote (233%), for religious exemptions (108%), regarding strike, lockout or picketing activity (74%), to cancel an accreditation (50%), to alter the terms and/or conditions of employment (50%), for certification (49%), for the appointment of an arbitrator (37%), to vary a certification (5%), for accreditation (from 0 to 2), regarding freedom of association (from 0 to 2) and to appoint a fact finder (from 0 to 2).

Applications disposed of by the Council decreased from 1987 in 15 categories shown in Table 1:

applications for essential service designations (94%), for the appointment of an officer to settle a grievance (85%), to vary an accreditation (75%), for a common employer declaration (75%), regarding an alleged failure to execute or comply with a collective agreement (69%), regarding alleged unlawful alteration of employment terms and conditions (68%), classified as miscellaneous (64%), for an interpretation of the legislation as it applies to the collective bargaining relationship (49%), to review an arbitration award (43%), for a successor status declaration (42%), to cancel a voluntary recognition collective agreement (42%) , alleging unfair labour practices (18%), for a declaratory opinion (excluding declaratory opinions pertaining to Part 5 of the Act) (13%), for reconsideration of a decision (9%) and to cancel a certification (1%).

One category remained unchanged:

applications for first contract arbitration.

B. CASES DEALT WITH IN 1988

Certification of Bargaining Agents

A significant aspect of the Council's workload involved applications for certifications under Section 39 of the Act, which contemplates three different kinds of applications for certification. Under Section 39(1), a trade union may seek certification for a group of previously unorganized employees, i.e. those not subject to an existing certification or collective agreement. Sections 39(2) and 41(2) provide that a trade union may apply to be certified for a group of employees already represented by another union. These applications are commonly known as

"raids". And Section 39(5) makes special provision for a joint application for certification by a number of unions.

The Council received 517 certification applications, (including 75 applications to certify bargaining units composed of teachers) in 1988, an increase of 198 over the applications received in 1987. The Council disposed of 512 certification applications in 1988, representing an increase of 169 over the applications processed in 1987. Of the 512 applications processed in 1988, 87 were withdrawn or not proceeded with, leaving 425 to be formally decided by the Council. Of these, 392 involved previously unorganized employee groups.

Of the 392 applications under Section 39(1) involving previously unorganized employees, a total of 65 were dismissed. A total of 13 applications were found to be beyond the Council's jurisdiction, either on constitutional grounds, based on the definition of "unit", or because the application was premature. Accordingly, of those cases within the Council's jurisdiction, 52 certification applications (14%) were denied in situations where the result was to leave the employees without any union representation.

The Council disposed of another 33 certification applications in respect of employees already represented by another union. This number represented about 8% of the total certification decisions in 1988. Seventeen applications were contested and involved entire bargaining units. The remaining 16 applications were uncontested or were made in attempts to fragment, or enlarge, existing units. The applicant union was successful in obtaining certification in 18 of the 33 cases.

Twenty-nine applications pursuant to Section 39(5) of the Act (joint applications for certification by a number of trade unions), were filed with the Council in 1988.

As well, 13 construction project certifications were issued by the Council pursuant to Section 45(1).

In 1988, applications under Section 39(1) regarding previously unorganized employees involved 37,767 employees, (including 31,558 teachers), of whom 36,206 obtained union representation. By contrast, inter-union contests under Sections 39(2) and 41(2) involved 1192 employees, with a resulting change in union representation for 681 of these employees. A review of Council files indicates that of the total 17 cases and 1192 employees, two inter-union contests resulted in more than one application and affected 31 employees (3%).

Inter-union contests between the General Truck Drivers' and Helpers' Union and the Christian Labour Association of Canada produced two applications involving 20 employees and between the Hospital Employees' Union and the International Union of Operating Engineers - two applications involving 11 employees.

In 1988, the number of employees benefiting from certification orders was 37,219 (including 31,588 teachers), an increase over the 4115 employees receiving certification in 1987. The number of employees involved in a contested change of union representation increased from 385 in 1987 to 681 in 1988.

Unfair Labour Practices and Remedies

Sections 2, 3, 4, 5, 5.1, 6, and 7 of the Act contain various provisions relating to unfair labour practices. In 1988, the Council received 280 complaints of violations of these several provisions of the statute, an increase from the 275 received in 1987. The Council disposed of 279 complaints: 135 were settled without adjudication, usually through the assistance of an investigating officer. Of the remaining 144 complaints adjudicated by the Council, 108 were rejected or not proceeded with and 36 resulted in remedial orders. Hearings were held for 104 applications and 93 of the 144 decisions were accompanied by published reasons.

Allegations of Employer Violations

A large number of unfair labour practice complaints allege employer activity designed to discourage employees from organizing. Of the 279 unfair labour practice cases disposed of by the Council in 1988, 122 alleged such violations under Sections 2 and 3 of the Act. Of these 122 complaints, 53 alleged dismissals contrary to the Act, while another 69 complained of employer tactics short of actual discharge. Of the 69 complaints, 55 involved allegations of improper attempts to induce or compel abstention from union membership and 14 were based on alleged interference with trade union administration.

A significant unfair labour practice complaint concerns discharge for union involvement, alleged in 53 of the 279 complaints. All of these complaints were brought by trade unions. Settlements were reached with the assistance of an officer in 34 cases. Nineteen discharge cases required adjudication.

Sixteen of the 53 dismissal complaints were withdrawn by the unions involved. Of the remaining 37 dismissal complaints, including settlements and decisions, 25 culminated in some form of relief for at least some of the employees affected.

The Council's power under Section 8(4)(c) to order reinstatement and/or back pay was the basis of ten decisions involving 20 employees. Fourteen of these employees were reinstated with back pay. One received a cash settlement. In one case, involving two employees, the parties were to negotiate a remedy. In another case, involving 3 employees, a consent order was issued whereby the employees would be recalled when work was available.

Ten complaints requested certification under Section 8(4)(e) in conjunction with a complaint under Section 3. None of the requests were granted.

Organizing on Employer Premises

Two complaints were filed alleging that trade unions had been organizing on the employers' properties during working hours. One of these complaints was filed by an incumbent union; the other was filed by an employer. Both cases were settled.

Coercion and Intimidation

Section 4(3) prohibits any coercive or intimidatory actions by a union in order to influence a person in deciding whether to be or cease being a union member. In 1988, the Council disposed of 11 applications alleging violations of this section. Seven cases were settled and four applications were dismissed.

Fair and Reasonable Conditions of Membership

The Council dealt with 19 applications under Section 5 of the Act, 14 filed by employees and five filed by a rival union or an association. Nine cases were settled and six applications were dismissed. In four cases, the Council found that a violation had occurred.

Discriminatory Practices Restricted

Section 5.1 is a new statutory provision introduced on July 27, 1987, which restricts a trade union's ability to require an employer to terminate an employee's employment, or otherwise to discriminate against an employee in regard to employment or a condition thereof, due to lack of trade union membership. The Council dealt with seven complaints under this section in 1988. Three complaints were settled and four were dismissed.

Duty to Bargain in Good Faith

There were 13 complaints disposed of alleging a refusal to bargain in good faith as required by Section 6 of the Act. Nine were filed by unions, three by employers and one by an employers' association.

Of the 13 charges of failure to bargain in good faith, five were voluntarily resolved. Six of these complaints were rejected. In two cases, a violation was deemed to have occurred.

Duty of Fair Representation

In 1988, the Council disposed of 105 complaints by individual employees alleging a violation by their bargaining agent of the duty of fair representation described in Section 7. Thirty-four of these complaints were voluntarily resolved through the efforts of an officer. Sixty-four complaints were either not proceeded with or rejected. In one case, a consent order was issued to resolve the dispute. In four cases, violations were found and the unions were ordered to take the grievance to arbitration. In one case, a violation was found and the parties negotiated a remedy. In one case, a violation was found and the union was ordered to compensate the complainant for lost hours.

Religious Exemptions

Twenty-five applications were disposed of by the Council seeking exemption for employees from the union security and dues provisions of collective agreements because of individual religious convictions or beliefs. Eight of the applications were granted, two were withdrawn and 15 were either not proceeded with or rejected.

Votes

Representation Votes

The Council may direct that representation votes be held in a variety of circumstances under the Act. A total of 499 representation votes were directed by the Council in the applications disposed of in 1988. In all applications for certification except "alternate construction certifications" under Section 45, a representation vote is required. A representation vote will be held pursuant to Section 52(2) of the Act where the Council receives a decertification application signed by at least 45% of the employees in the bargaining unit. Under Section 53(2), the Council may order a representation vote to determine which trade union will be the bargaining agent for a unit created as a result of a successorship. The Council may order that a representation vote be conducted before declaring that one trade union has acquired the rights of another trade union due to a merger, amalgamation, or transfer of jurisdiction (See Section 54(2)). Section 40 of the Act requires the Council to conduct a representation vote before issuing a multi-employer certification. Representation votes are used to determine consent to trade union representation by dependent contractors (Section 48(1)) and by professional employees (Section 152(2)). Finally, representation votes are used to determine whether a proposed council of trade unions is representative of the employees in the proposed bargaining unit (Section 57).

A total of 381 votes were held involving 388 applications for certification. Three hundred and sixty-four votes involved applications for certification under Section 39(1) of the Act. Of these, 356 involved only one application. Seven votes involved two certification applications for the same unit. One vote involved both a certification application and an application to vary a certification. A total of 37,575 voters were eligible to participate in the 364 votes under Section 39(1); the union was successful in 321 out of 371 applications or 87% of the cases. Seventeen votes involved applications for certification under Section 39(2) of the Act. All votes involved only one applicant union. A total of 1374 voters were eligible to participate in the 17 votes; the applicant union was successful in 13 or 76% of the cases.

Twenty-one applications to vary a certification required a vote. All of these sought to expand a presently certified bargaining unit, and the union was successful in 14 of these applications.

Eighty-eight votes involved decertification applications made under Section 52(2) of

the Act. In 76 cases, the union was decertified. The total number of employees eligible to vote for or against decertification, was 1736.

Six votes were held to cancel a voluntary collective bargaining relationship. In five of the six cases, the employees voted to cancel the relationship. Eleven employees were eligible to participate in the six votes.

Two votes involved successorship applications. One vote resulted from an appeal of a certification decision.

"Offer Last Received" Votes

Section 137.7 is a new statutory provision introduced on July 27, 1987. Section 137.7(4) provides that before the commencement of a strike or lockout, the employer may request the commissioner to direct a vote of the employees in the affected bargaining unit regarding acceptance or rejection of the employer's offer last received by the trade union. Under Section 137.7(5), a trade union may request the commissioner to direct that a vote be taken of employers in an employers' organization as to the acceptance or rejection of the trade union's offer last received by the employers' organization. Moreover, during a strike or lockout the commissioner may, on his own motion pursuant to Section 137.7(9) or (10), direct that a "final offer vote" be held if he considers it in the public interest to do so. Section 137.7(6) provides that where a vote favours the acceptance of a "final offer", an agreement is thereby constituted between the parties.

In 1988, 34 applications under Section 137.7(4) were filed with the Council and 30 such applications were disposed of. Twenty-seven of these applications were granted and three were withdrawn. In five cases, the vote favoured acceptance of the employer's offer and an agreement was constituted between the parties. In two cases the parties reached an agreement prior to the vote being held. In the remaining 20 cases, the employees voted to reject the offer. No applications were filed under Section 137.7(5), nor did the commissioner direct any votes pursuant to Section 137.7(9) or (10) of the Act.

First Contract Arbitration

After a trade union has been certified as bargaining agent for a group of employees, it will commence bargaining with the employer to conclude a first collective agreement. If the parties are unable to reach their first collective agreement, Section 137.5 of the Act provides that upon the request of a party, the commissioner may constitute a panel of the Council to inquire into the dispute and if he considers it advisable, to settle the terms and conditions of the agreement. Section 137.5 was introduced on July 27, 1987, and replaces Section 70 which provided that such a dispute would be referred to the tribunal by the Minister of Labour.

No applications by a party for first contract arbitration were received by the Council in 1988.

Failure to Execute or Comply with a Collective Agreement

In 1988, the Council received 12 applications alleging violation of Section 65(1) or (2) of the Act. It disposed of 15 such applications, eight of which were settled and five dismissed. In two cases, orders were issued.

Delay or Unrest in Settling a Difference

In 1988, the Council received no applications under Section 97 alleging undue delay in resolving a difference arising during the term of a collective agreement.

Alteration of Employment Terms and Conditions

Section 51 of the Act requires the Council's consent to changes in working conditions while a certification application is pending. Section 61 imposes the same requirement for four months following certification or until a collective agreement is execut d, whichever occurs first. In 1988 the Council received and disposed of three applications seeking permission to alter terms and conditions of employment. One application was granted and two were withdrawn.

In 1988, the Council received 18 applications alleging violation of Section 51 or 61 of the Act and disposed of 12 such applications. Seven of the applications disposed of were settled, four were dismissed and in one case, a consent order was issued.

Questions Arising Under the Act

Section 34 of the Act describes the Council's exclusive jurisdiction to decide any question arising under the Act, including whether certain individuals are "employees" and thus appropriately included in a bargaining unit. In 1988, 67 such applications were filed with the Council. A total of 73 such applications were disposed of by the Council, 52 of same involving the question as to whether individuals were "employees" under the Act. See page 49 for a discussion of applications to terminate collective agreements.

Declaratory Opinion

The Council received 10 applications in 1988 requesting that it render a declaratory opinion (other than applications pertaining to Part 5 of the Act). The Council disposed of 13 applications. In seven cases, an opinion was issued. Six applications were rejected.

Variance of Certification

In 1988, the Council received a total of 634 applications for certification variance, an increase of 36% over 1987. As in previous years, most of the applications involved a simple change in the name or address of the employer or the trade union. The Council disposed of 566 applications for certification variance, granting 526 of the applications. Twenty-five of the applications to vary a certification sought to expand a bargaining unit. Fourteen of these were granted, adding 63 employees and 74 dependent contractors to existing certifications. Votes were conducted to determine 21 applications.

Declaration of Successor Employer

Section 53 provides for the automatic transfer of union certification and the collective agreement when a business is disposed of, for example, by sale or lease. In 1988, the Council received 122 applications for a declaration of successor employer status. The Council disposed of 123 such applications in 1988, granting 95, while 17 were withdrawn and 11 were either not proceeded with or rejected.

Declaration of Successor Trade Union

In 1988 the Council received 22 applications for declaration under Section 54 of the Act, on the bargaining rights of successor trade unions resulting from a union merger, amalgamation, or a transfer of jurisdiction. The Council disposed of 34 such applications, granting 30. One was not proceeded with and three were withdrawn.

Declaration of Common Employer

In 1988, the Council received 16 applications for declarations under Section 37 of the Act to treat two or more businesses as constituting one employer. A total of 28 applications under Section 37 were disposed of, 18 of them involving enterprises in the construction industry. Nineteen applications were settled or withdrawn. Of the remaining nine, the Council granted four declarations with respect to at least some of the businesses named in the application. The balance were rejected.

Essential Services Designation

The Council dealt with two applications requesting essential service designations, issuing two orders.

Resolving Grievances under a Collective Agreement

Section 96 of the Act provides the Council with a comprehensive original jurisdiction to resolve grievances arising under the provisions of a collective agreement. In 1988, the Council received 82 applications under Section 96

requesting the assistance of an officer to settle a difference arising during the term of a collective agreement. A total of 75 applications under Section 96 were disposed of by the Council, with 45 voluntarily settled, virtually all through the efforts of an officer. This represents a settlement rate of 60%, a major benefit to the labour relations community, given that the parties voluntarily resolved their differences and a potentially serious overloading of the arbitration procedure was thereby avoided. If the officer appointed by the Council does not achieve a resolution of the arbitrable difference, the Council may either refer the matter back to the parties, or inquire into the difference itself and make an order to finally resolve it. Of the 75 applications disposed of in 1988 under Section 96, 30 were not settled through officer mediation. Two of these applications were withdrawn prior to the involvement of an officer, one was not proceeded with, five were determined to be non-arbitrable and 14 were referred back to the parties. The remaining eight were adjudicated by the Council, six of which turned on issues which could be disposed of on the basis of the officer's report and written submissions from the parties.

Review of Arbitration Awards

Section 108 of the Act gives the Council authority to review arbitration awards delivered under collective agreements. In 1988, the Council received 31 applications, and disposed of 34 applications under Section 108. Of the latter, 22 were brought by employers, nine by unions, two by employer associations and one by an individual grievor. Nine dealt with arbitration awards regarding discharge grievances.

Section 108 affords only a limited review of an arbitration award rather than an extensive scope of appeal. This policy of limited interference in grievance arbitration is reflected in the fact that of the 34 applications disposed of during the year, in only six cases were the arbitrators' decisions set aside. In two cases, the awards were referred back to the arbitrators. In two other cases, the parties were directed to set up new arbitration boards to hear the grievances afresh. In one case, the Council substituted another award. In another case, the panel retained the discretion to arbitrate if a settlement was not possible. Five applications under Section 108 were withdrawn and 23 were dismissed. Of the 29 applications adjudicated by the Council, one was dealt with in a formal hearing and 25 were disposed of with reasons for decision issued to the labour relations community at large.

Accredited Employers' Organizations

One application was received in 1988 for accreditation of an employer organization as a bargaining agent of employers. Two applications for accreditation were addressed and both were granted.

There were 105 applications made to vary an accreditation and 44 applications disposed of: 17 were granted, one was dismissed and 26 were withdrawn. (See Table 1 and footnotes thereto in the Statistical Appendix).

The Council received one application in 1988 to cancel an accreditation. Three applications were disposed of and granted.

Strikes, Lockouts and Picketing

A total of 191 applications relating to strikes, lockouts and picketing were received by the Council in 1988. The Council disposed of 183 cases: 122 applications alleged illegal strike activity, one alleged an illegal lockout and 60 concerned picketing activity.

Of the 183 applications disposed of by the Council in 1988, 64 were settled without formal adjudication. These included 41 of the 122 strike applications, and 23 of the 60 picketing applications.

Of the 119 applications which required formal adjudication, 105 resulted in orders or opinions and 14 were dismissed. Eighty-one of the applications requiring adjudication involved some sort of strike activity, one involved an alleged lockout and 37 involved picketing activity.

Strikes and Lockouts

A fundamental principle of the Act is that the legality of a strike or lockout depends upon its timing. Section 93 requires that all disputes arising under a collective agreement are to be resolved, without work stoppage, by arbitration or another method agreed to by the parties. Sections 79 and 79.1 also contemplate that strikes and lockouts are prohibited during the term or operation of a collective agreement. Moreover, Sections 80 through 83 of the Act stipulate certain preconditions to the legality of a strike or lockout.

In 1988, the Council disposed of 122 applications alleging illegal strike activity. Of the 81 applications which required adjudication, 16 alleged threatened or actual illegal job action while a collective agreement was in effect. For 15 of the 16 applications, the Council ruled that a violation of the Act had occurred or would occur. Another 60 of the adjudicated strike applications alleged a violation of statutory preconditions to legal job action: a violation was found to have occurred in 54 cases, while two applications were resolved with a consent order. Four applications were dismissed. Finally, in five of the 81 applications requiring adjudication, relief was requested under Section 90. In four of the five applications, relief was granted.

The Council disposed of one application during 1988 alleging an illegal lockout. It was dismissed.

Picketing

Sections 85 through 88 of the Act delineate the scope of legal picketing activities by trade unions. In the 1988 report year, 60 applications relating to picketing were disposed of by the Council, 47 filed by employers and 13 by unions. See Table 7 in the Statistical Appendix for an illustration of the nature and disposition of these applications.

Termination of Bargaining Rights

Section 52 of the Act deals with the cancellation of trade union certifications. In 1988, 276 such applications were filed with the Council. The Council disposed of 286 such applications in 1988. Of the latter, 132 were filed by groups of employees, 148 were filed by employers, and six were filed by trade unions. The Council granted 187 of these applications, 87 were rejected or not proceeded with and 12 were withdrawn. See Table 3 in the Statistical Appendix.

Termination of Collective Agreements

Section 66(1.1) is a new provision of the Act introduced on July 27, 1987. It provides that a collective agreement is deemed to be terminated where an employer has not employed a person as an employee in a unit for a period of two years. In 1988, there were 50 applications regarding the termination of voluntary recognition collective agreements filed, by employers , with the Council. The Council disposed of 47 such applications, granting 26. Of the remainder, 16 were rejected or not proceeded with and five were withdrawn.

The Council also received seven applications in 1988 from employees seeking a declaration that the collective agreement applicable to their unit was terminated. These applications arose in voluntary recognition relationships. The decision in the Cairns Electric case (British Columbia and Yukon Territory Building and Construction Trades Council v. Cairns Electric Ltd et al. (1988) 27 B.C.L.R. (2d) 164 (S.C.)) held that the Council does not have jurisdiction to terminate voluntary recognition collective agreements or to cancel voluntary recognition bargaining relationships, at the request of the employees in the bargaining unit. Nine such applications were disposed of in 1988. Five were granted, all prior to June 1, 1988. Of the remainder, three were rejected and one was withdrawn. In one case, a union requested that its voluntary recognition collective agreement be terminated. That request was granted.

Reconsiderations

In 1988, the Council received 146 applications under Section 36 of the Act, requesting reconsideration of Council decisions. Of the 185 applications disposed of during 1988, 27 were withdrawn, 127 were dismissed and 31 resulted in a change in the original decision. For an illustration of the "success" rate of reconsideration applications, see Table 6 in the Statistical Appendix.

Trusteeship Over Local Unions

Under Section 11.1 of the Industrial Relations Act, when supervision or control over a subordinate trade union is assumed by a provincial, national or international trade union, the latter is required to file with the Council, a statement setting out the terms under which the supervision or control is to be exercised, within 60 days of assuming such supervision or control. The supervision or control shall continue for not more than 12 months unless an application is received to extend the supervision or control for a further period, not exceeding 12 months. In 1988, one statement was filed with the Council and one application for extension was granted.

DISPUTES RESOLUTION DIVISION

Section 137.2 in Part 8.1 of the Act specifies the duties of the Disputes Resolution Division:

(a) to monitor collective bargaining between employers and bargaining agents;

(b) to provide assistance to employers and bargaining agents to facilitate the making or renewing of collective agreements;

(c) to gather and publish information and statistics respecting labour relations, employment and collective bargaining in the Province;

(d) to administer mediation services provided under this Part, and

(e) to carry out the functions imposed on it by this Part and other functions the Council considers necessary to effect the purposes of this Part.

The chairman of the Disputes Resolution Division carries the responsibilities of the Division, assisted by a vice chairman and five mediation officers. As of December 31, 1988, Don Cott, Larry Gregg, Jim Toogood, Lynn Turner and Malcolm Wilkinson served as mediation officers. In addition, Jim Toogood also acts as the Co-ordinator of the Preventive Mediation Program, and Larry Gregg as the Director of Statistics responsible for overseeing the collective bargaining database and any related publications issued by the Council. When the Minister directs the Council

to designate essential services (see Section 137.8 of the Act), the Commissioner may refer the matter to a vice chairman in this Division. The provision of mediation services is described in Sections 137.3 and 137.7 of the Act. Mediation officers are also available on an informal basis. The clients are trade unions, employers, and employers' organizations located throughout British Columbia. The Division maintains contact with a variety of conciliation and mediation services in Canada and the United States to exchange information on administration, legislation, trends and problems of mutual concern. The Division also makes available speakers, panelists and moderators to educational institutions as well as trade union and employer organizations.

For an analysis of mediation officer appointments and outcome of appointments in 1988, refer to Tables 9 and 10 in the Statistical Appendix.

The Division administers the Preventive Mediation Program. This program utilizes the services and expertise of mediation officers to assist labour and management in identifying and resolving existing or potential problems which affect the collective bargaining relationship. It is founded on the premise that effective labour/management relations benefit the public as well as the parties. The five parts of the program are:

- *relationship by objectives*
- *joint training*
- *grievance mediation*
- *labour-management committees*
- *first agreement orientation*

Relationship by objectives is an in-depth, conflict resolution process that brings the parties together to analyze problems of mutual concern, to establish common objectives, and to decide on ways and means to implement those objectives. Joint training is a joint union-management labour relations training course for shop stewards and management supervisors. The training is intended to enhance the ability of supervisors and stewards to jointly deal with minor problems before they become major issues; to encourage supervisors and stewards to recognize and respect each other's roles, responsibilities and rights; to emphasize joint problem-solving and the mutuality of interests. *Grievance mediation* is a quick, inexpensive and voluntary way to resolve grievances. Representatives of labour and management meet with a mediation officer to attempt resolution of a grievance prior to arbitration. It is an informal process that has proven useful not only in resolving grievances but in identifying and resolving situations that produce grievances. In 1987, mediation officers in this program participated in 100 grievance mediations, only one of which was not resolved in the process. *Labour-management committees* provide an effective forum for emphasizing two-way communication on problems that affect relations between labour and management. These committees may focus on issues that would normally arise in piecemeal fashion or which would otherwise need to be addressed through more formal mechanisms. Concerns such as working conditions, operational problems, job assignments, work scheduling and economic conditions affecting the enterprise can be effectively dealt with by labour-management committees. The Division provides assistance on how to establish and maintain such committees, including monitoring or chairing new committees. *First agreement orientation* is a Division service that provides information to employers

and trade unions who are negotiating or are about to negotiate a collective agreement for the first time. The objective is to remove the mystique surrounding collective bargaining by providing practical information on the legislative guidelines and thereby enabling negotiations to proceed more smoothly. It is not intended to teach labour relations techniques.

The Preventive Mediation program began in earnest in 1988. During the year the Council's mediation staff engaged in training in Ontario through the auspices of the Ontario Ministry of Labour. The training involved the observation of and participation in specific Relationship by Objectives programs involving employers and trade unions in Ontario. It will continue into 1989 to insure that all mediators possess the skills required to implement the Program.

The Division responded to eight applications for participation in the Preventive Mediation program. These inquiries involved requests for information, copies of the First Agreement Orientation kits and follow up information. Applications were also received for Joint Training, Grievance Mediation and information on Relationship by Objectives workshops. Following an extensive review, the first Joint Training program will be conducted in Richmond during the last three weeks of January 1989.

COLLECTIVE BARGAINING INFORMATION SYSTEM

During 1988 the Division began work on the development and implementation of a computer oriented data base containing compensation information on all active collective agreements within the province.

The development has resulted in two parallel processes. The first centers on the actual collection of the compensation details. Working closely with the labour relations community the Division developed and published a "Collective Bargaining Statistical Report." This report requests specific compensation information on each collective agreement. Reports were requested of 564 employers and by year end 338 completed reports had been returned.

The second process deals with the development of costing models and the computer software needed to store and retrieve the information contained in the data base. Work in this area is proceeding on schedule and it is expected that the full system will be operational by September 1989.

The information will be made available to the public through the publication of a monthly newsletter (by subscription). In addition, interested parties may make specific requests for information beyond that contained in the newsletters. The information contained in the data base will be detailed to a degree exceeding that contained in other similar data bases in the Province. This system will allow the Council to serve the public in a more timely and efficient manner.

VIII APPENDIX OF STATISTICAL TABLES

The following tables provide an analysis of the applications filed and disposed of in 1987 and 1988.

The Council is implementing a computerized Case Management System. The statistical base for the category relating to the appointment of strike and lockout observers had to be changed to be compatible with the new system. The 1988 Tables show the number of **applications** for appointments received and disposed of by the Council. As well, for 1988, the number of appointments made in respect of those applications is shown in a footnote. In 1987 and all years previous, the number of **appointments** rather than the number of applications were reported.

A new category, *"For an Interim Order"*, has been added to the Tables. Such applications were not reported in 1987 although the legislation allowing for them was introduced on July 27, 1987.

Challenged Strike Vote applications which have previously been shown in the *"Miscellaneous"* category are now shown in the category headed *"For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)."* The 1987 *"Miscellaneous"* statistic has been adjusted to reflect this.

Several types of applications previously included in the *"Miscellaneous"* category are this year shown in separate categories. See the footnote on Page 60 for a list of these applications. The 1987 *"Miscellaneous"* statistic has been adjusted to reflect this change as well.

As in previous years, an application involving a dispute is classified as withdrawn if the request for withdrawal comes prior to the involvement of an officer or a panel. An application withdrawn following such involvement is classified as settled.

It is important to note when using these statistics as a guide that the work content embodied in individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

TABLE 1

APPLICATIONS AND COMPLAINTS FILED AND DISPOSED OF 1987 - 1988

The category "Order Issued" includes all rulings that a violation occurred or that a specific activity should be restricted. Formal orders were not necessarily issued.

The category "Rejected" includes decisions where no violation is deemed to have occurred, where the application does not conform to statutory or regulatory time limits or where it is determined no further action is warranted.

For further elaboration of the figures in the table, refer to Chapter VI and the previous page.

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1987	1988	1987	1988
Certification Applications				
Granted			184*3	345*4
Rejected			78	80
Not Proceeded With			0	3
Withdrawn			81	84
Sub-Total	319*1	517*2	343	512
Certification Variances				
Granted			473	526
Rejected			46	16
Not Proceeded With			0	5
Withdrawn			22	19
Sub-Total	465	634	541	566
Certification Cancellations				
Granted			210	187
Rejected			25	30
Not Proceeded With			29	57
Withdrawn			24	12
Sub-Total	221	276	288	286

cont.

*1 10,608 employees were included in the 319 certification applications filed in 1987.

*2 47,130 employees were included in the 517 certification applications filed in 1988. 75 certification applications were for units composed of 31,558 teachers.

*3 4,115 employees were included in the 184 certifications granted in 1987.

*4 37,219 employees were included in the 345 certifications granted in 1988. 75 certification applications were for units composed of 31,558 teachers.

The estimate of employees per application is derived from the estimate on the union applications. Variances do occur between the time of application and the time of disposal of the application. In the case of applications filed, the estimate could include some multiple counting where more than one union applied to cover the same group of employees.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1987 - 1988

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1987	1988	1987	1988
Accreditation Applications				
Granted			0	2
Rejected			0	0
Not Proceeded With			0	0
Withdrawn			0	0
Sub-Total	0	1	0	2
Accreditation Variances				
Granted			109	17
Rejected			20	1
Not Proceeded With			0	0
Withdrawn			46	26
Sub-Total	181*1	105*2	175*3	44*4
Accreditation Cancellations				
Granted			2	3
Rejected			0	0
Not Proceeded With			0	0
Withdrawn			0	0
Sub-Total	4	1	2	3
Declaration of Successor Status				
Granted			191	125
Rejected			18	9
Not Proceeded With			0	3
Withdrawn			62	20
Sub-Total	189	144	271	157

cont.

*1 To add 19 employers, to delete 173 employers and to vary the names and/or addresses of four employers and two associations.

*2 To add 20 employers, to delete 13 employers and to vary the names and/or addresses of 87 employers and three associations.

*3 22 employers were added to accreditations, 104 were deleted and the names and/or addresses of 123 employers and two associations were varied. Requests to delete 19 employers and to vary the name of one employer were denied. Requests to add one employer, to delete 57 employers and to vary the names and/or addressses of 21 employers were withdrawn.

*4 21 employers were added to accreditations, seven were deleted and the names and/or addresses of two employers and two associations were varied. A request to delete one employer was denied. Requests to add one employer and to delete 26 employers were withdrawn.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1987 - 1988

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1987	1988	1987	1988
Appointment of an Officer to Resolve a Dispute Where a Collective Agreement is in Effect				
Settled			337	45
Arbitrated			46	8
Referred Back to Parties			111	14
Not Arbitrable			1	5
Not Proceeded With			0	1
Withdrawn			2	2
Sub-Total	299	82	497	75
Complaints of Unfair Labour Practices				
Settled			223	135
Order Issued			27	36
Rejected			89	94
Not Proceeded With			1	14
Withdrawn			0	0
Sub-Total	275	280	340	279
To Alter Conditions of Employment				
Granted			1	1
Rejected			0	0
Not Proceeded With			0	0
Withdrawn			1	2
Sub-Total	2	3	2	3
For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship				
Ruling Made			94	21
Not Proceeded With			0	4
Withdrawn			49	48
Sub-Total	106	67	143	73

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1987 - 1988

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1987	1988	1987	1988
To Cancel a Voluntary Recognition Collective Agreement				
Granted			75	32
Rejected			7	6
Not Proceeded With			5	13
Withdrawn			11	6
Sub-Total	66	58	98	57
For an Inquiry to Settle the Terms and Conditions of a First Collective Agreement				
Settled			0	0
Contract Imposed			0	0
Rejected			0	0
Withdrawn			0	0
Sub-Total	0	0	0	0
For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)				
Settled			68	64
Order or Opinion Issued			29	105
Rejected			8	14
Sub-Total	93*	191	105*	183
To Treat Several Entities as One Employer				
Granted			15	4
Rejected			16	5
Not Proceeded With			0	0
Withdrawn			80	19
Sub-Total	54	16	111	28

cont.

* In the 1987 Annual Report, nine applications pertaining to challenged strike votes were included in the Miscellaneous category. Those applications are appearing in this category for 1987 and 1988 and the Miscellaneous category for 1987 has been adjusted accordingly.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1987 - 1988

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1987	1988	1987	1988
For Review of an Arbitration Award				
Granted			13	6
Rejected			35	23
Not Proceeded With			0	0
Withdrawn			12	5
Sub-Total	35	31	60	34
For the Appointment(s) of Observer(s) of a Strike or Lockout Poll				
Appointment(s) Made			232	131*1
Withdrawn			0	3
Sub-Total	232	134*1	232	134*1
For the Appointment of an Arbitrator				
Request Acknowledged			589	807
Sub-Total	589	807	589	807
For an Interim Order				
Granted			-	2
Rejected			-	2
Not Proceeded With			-	56
Sub-Total	-*2	64	-*2	60
For an "Offer Last Received" Vote				
Granted			7	27*3
Rejected			1	0
Withdrawn			1	3
Sub-Total	9	34	9	30

cont.

*1 167 observers were appointed for the 134 applications. Due to the conversion to a computer based case management system, it was necessary to change the statistical base for strike or lockout observer appointments in 1988. See the preface to the Statistical appendix for an explanation of the change.

*2 Statistic for 1987 not available.

*3 In 20 cases, the employees voted to reject the offer. In five cases, they accepted the offer. In two cases, the parties reached a settlement before the vote was held.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1987 - 1988

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1987	1988	1987	1988
For Religious Exemption				
Granted			9	8
Rejected			1	4
Not Proceeded With			0	11
Withdrawn			2	2
Sub-Total	15	26	12	25
For an Order Regarding an Alleged Failure to Execute or Comply with a Collective Agreement				
Settled			38	8
Order Issued			6	2
Rejected			4	5
Sub-Total	35	12	48	15
For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions				
Settled			30	7
Order Issued			4	1
Rejected			3	4
Sub-Total	29	18	37	12
For Essential Service Designations				
Settled			2	0
Order Issued			30	2
Rejected			0	0
Sub-Total	32	2	32	2
For a Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Industrial Relations Act)				
Opinion Issued			2	7
Rejected			9	6
Withdrawn			4	0
Sub-Total	19	10	15	13

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1987 - 1988

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1987	1988	1987	1988
For an Order Prohibiting a Secondary Boycott				
Settled			1	4
Order Issued			0	0
Rejected			0	0
Sub-Total	1	8	1	4
For an Order Regarding Freedom of Association				
Settled			0	2
Order Issued			0	0
Rejected			0	0
Sub-Total	0	6	0	2
To Appoint a Fact Finder				
Granted			0	1
Rejected			0	1
Withdrawn			0	0
Sub-Total	0	2	0	2
Miscellaneous				
Settled			29	6
Granted			0	2
Order Issued			10	0
Rejected			10	7
Not Proceeded With			0	0
Withdrawn			9	6
Sub-Total	57*	20	58*	21

cont.

* Adjusted to exclude

(a) challenged strike votes which are now shown in the category headed "For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.) and

(b) applications for religious exemption, for "offer last received" votes, regarding alleged failure to execute or comply with a collective agreement, alleging unlawful alteration of employment terms and conditions, for essential service designations, for declaratory opinions (other than applications for declaratory opinions pertaining to Part 5 of the Industrial Relations Act) and for an order prohibiting a secondary boycott, all now shown in separate categories.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS
FILED AND DISPOSED OF
1987 - 1988

TYPE OF APPLICATION	APPLICATIONS AND COMPLAINTS FILED		APPLICATIONS AND COMPLAINTS DISPOSED OF	
	1987	1988	1987	1988
For Reconsideration of a Decision				
Dismissed			125	127
Varied			12	20
Reversed			14	11
Withdrawn			53	27
Sub-Total	192	146	204	185
TOTAL	3519	3695*	4213	3614*

* Due to the conversion to a computer based case management system, it was necessary to change the statistical base for strike and lockout observer appointment applications in 1988. Also, applications for Interim Orders have been added to the 1988 statistics. See the preface to the Statistical Appendix for an explanation of the change.

Note: In addition to the above, the Council received 94 requests in 1988 to file orders in the Supreme Court. Seventy of these requests were granted, three were rejected and 18 were withdrawn or not proceeded with. Three were outstanding at the end of the year.

TABLE 2

CERTIFICATION APPLICATIONS DECIDED IN 1988

APPLICATIONS	GRANTED	REJECTED	TOTAL
Unorganized Employees *	327**	65	392**
Organized Employees	18	15	33
TOTAL	345**	80	425**

* Deleting the 13 applications for unorganized employees which were rejected because they did not come under the jurisdiction of the Council, because the bargaining unit was inappropriate or because the application was premature, the percentage of successful applications to certify unorganized employees can be expressed as 327 out of 379 or 86%.

** Includes 75 certifications for bargaining units composed of teachers.

NUMBER OF EMPLOYEES	GRANTED	REJECTED	TOTAL
Unorganized Employees	36206*	1561	37767*
Organized Employees	1013	581	1594
TOTAL	37219*	2142	39361*

* Includes 31,558 teachers.

ATTEMPTS BY ANOTHER UNION TO REPLACE AN INCUMBENT UNION(S)	SUCCESSFUL	UNSUCCESSFUL	TOTAL
Number of Attempts	10	7	17
Number of Employees Involved *	681	511	1192

* The balance of the organized employees were involved in uncontested applications or attempts to enlarge or fragment existing bargaining units.

TABLE 3

APPLICATIONS TO CANCEL CERTIFICATIONS DISPOSED OF IN 1987-1988

	NUMBER OF APPLICATIONS	
	1987	1988
Filed by the Employee(s)		
Granted	83	77
Rejected	15	20
Not Proceeded With	14	29
Withdrawn	6	6
TOTAL	118	132
Filed by the Employer		
Granted	124	104
Rejected	10	10
Not Proceeded With	15	28
Withdrawn	17	6
TOTAL	166	148
Filed by the Union		
Granted	3	6
Rejected	0	0
Withdrawn	1	0
TOTAL	4	6
Summary		
Granted	210	187
Rejected	25	30
Not Proceeded With	29	57
Withdrawn	24	12
TOTAL	288	286

TABLE 4

CERTIFICATION APPLICATIONS RESULTING IN A VOTE IN 1988

A.	Number of applications resulting in a vote for or against one union or between two unions applying for the same unit		371 out of 406 or 91%
	Number of successful applications		321
	Number of unsuccessful applications		50
	Percentage of successful applications		87%
	Total number of eligible voters involved in the 371 applications **	37,575	
B.	Number of applications resulting in a choice between an applicant and an incumbent union		17* out of 19* or 89%
	Number of successful applications		13
	Number of unsuccessful applications		4
	Percentage of successful applications		76%
	Total number of eligible voters involved in the 17 applications **	1,374	

* Includes 2 uncontested applications.

** This figure can vary from the number of employees originally applied for. In some cases, two or more applications resulted in one vote and thus one group of eligible voters.

TABLE 5

APPEALS DISPOSED OF IN 1988

Type of Application Being Reconsidered	Dismissed	Varied	Reversed	Withdrawn	Total
Certification	17	4	2	6	29
Appeal of a certification decision	5	2	0	0	7
Appeal of an appeal of a certification decision	1	0	0	0	1
Variance of certification	2	1	0	1	4
Appeal of a variance of certification	1	0	0	0	1
Cancellation of a certification	6	1	0	2	9
Cancellation of an accreditation	2	0	0	3	5
Declaration of successor status	6	1	2	3	12
The disposition of a grievance under an existing collective agreement	2	1	0	0	3
Unfair labour practice adjudication	26	3	1	3	33
Appeal of an unfair labour practice adjudication	5	1	1	0	7
Appeal of an appeal of an unfair labour practice adjudication	1	0	0	0	1
A ruling re: an interpretation of the legislation as it applies to the collective bargaining relationship	6	1	1	0	8
Appeal of a ruling re: an interpretation of the legislation as it applies to the collective bargaining relationship	3	0	0	1	4
A ruling re: cancelling a voluntary collective bargaining relationship	0	1	0	0	1
A ruling re: more than one corporate entity being considered as one employer	0	0	1	1	2

cont.

TABLE 5 (cont.)

APPEALS DISPOSED OF IN 1988

Type of Application Being Reconsidered	Dismissed	Varied	Reversed	Withdrawn	Total
A ruling pertaining to alleged illegal strikes, lockouts, picketing, etc.	6	2	1	1	10
Appeal of a ruling pertaining to alleged illegal strikes, lockouts, picketing, etc.	2	0	0	0	2
A review of an arbitration award	9	1	1	1	12
Appeal of a review of an arbitration award	3	0	0	0	3
A ruling re: collective agreement compliance	2	0	0	0	2
A ruling re: a last offer vote	1	0	0	2	3
A ruling re a bargaining council	1	0	0	0	1
A ruling re a union financial statement	1	0	0	0	1
A ruling to amend an order	1	0	0	0	1
A ruling to extend time limits	1	0	0	0	1
A declaratory opinion	3	0	0	2	5
A ruling re: essential service designations	0	1	0	0	1
A ruling re: procedure	14	0	1	1	16
TOTAL	127	20	11	27	185

Appellant(s)	Dismissed	Varied	Reversed	Withdrawn	Total
Employer(s)	44	10	5	11	70
Union(s)	53	6	1	15	75
Employee(s)	26	4	4	0	34
Accredited Employer Organization	3	0	0	0	3
Other	1	0	1	1	3
TOTAL	127	20	11	27	185

TABLE 6

"SUCCESS" RATE OF APPEALS

	1984	1985	1986	1987	1988
Total Applications Disposed of	211	154	174	204	185
Number of These Withdrawn	28	29	25	53	27
Number of Applications Processed to a Final Decision	183	125	149	151	158
Number of Applications Resulting in a Revision of the Original Decision	40	20	25	26	31
"Success" Rate of Appeals	22%	16%	17%	17%	20%

TABLE 7

APPLICATIONS PURSUANT TO PART 5
OF THE INDUSTRIAL RELATIONS ACT
(STRIKES, LOCKOUTS, PICKETING, ETC.)

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
A. Dispute settled			
1. re alleged illegal strike	29	6	0
2. re picketing (employer complaint)	16	2	0
3. re picketing (trade union application for a declaratory opinion)	7	3	0
4. re activity affecting business, etc. (S.90)	3	0	0
5. re a challenged strike vote	9	1	0
Sub-Total	64	12	0
B. Dispute disposed of by an adjudication that:			
(a) a violation had occurred or would occur or that a specific activity should be restricted, or			
(b) that certain proposed picketing be allowed			
1. re alleged illegal strike			
- work stoppage	34	34	1
- refusal to perform certain duties	5	5	0
2. re picketing (employer complaint)	29	24	4
3. re picketing (trade union application for a declaratory opinion)	1	1	1
4. re activity affecting business, etc. (S.90)	4	4	1
5. re challenged strike vote	32	32	3
Sub-Total	105	100	10

cont.

TABLE 7 (cont.)

APPLICATIONS PURSUANT TO PART 5
OF THE INDUSTRIAL RELATIONS ACT
(STRIKES, LOCKOUTS, PICKETING, ETC.)

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
C. Dispute disposed of:			
(a) by an adjudication that **no** violation had occurred or would occur or that a specific activity should **not** be restricted, or			
(b) by a refusal to rule on the proceedings			
1. re alleged illegal lockout	1	1	1
2. re alleged illegal strike			
- work stoppage	1	1	0
3. re picketing (employer complaint)	2	1	0
4. re picketing (trade union application for a declaratory opinion)	5	5	4
5. re activity affecting business, etc. (S.90)	1	1	0
6. re challenged strike vote	4	3	0
Sub-Total	14	12	5
TOTAL	183	124	15

* In 1983, the Labour Relations Board changed its procedures regarding published decisions. Letter decisions and formal decisions were consolidated into one series. Statistics from 1983 on reflect this consolidated series and cannot be compared with previous years where only formal decisions were considered.

Note: The applications in Table 7 include those filed to avert threatened strikes, lockouts and/or picketing (through a declaratory opinion, a jurisdictional decision, etc.) as well as those protesting some form of actual job action.

TABLE 8

1988 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
Certification Applications	0	517	0	0	517
Certification Variances	39	589	2	4	634
Certification Cancellations	138	6	132	0	276
Accreditation Applications	1	0	0	0	1
Accreditation Variances	105	0	0	0	105
Accreditation Cancellations	1	0	0	0	1
Declaration of Successor Status	42	100	0	2	144
Appointment of an Officer to Resolve a Dispute Where a Collective Agreement is in Effect	2	80	0	0	82
Complaints of Unfair Labour Practices	10	149	120	1	280
To Alter Conditions of Employment	3	0	0	0	3
For an Interpretation of the Legislation as it Applies to the Collective Bargaining Relationship	42	21	2	2	67
To Cancel a Voluntary Recognition Collective Agreement	50	1	7	0	58
For an Inquiry to Settle the Terms and Conditions of a First Collective Agreement	0	0	0	0	0
For an Order or Opinion Pertaining to Applications Pursuant to Part 5 of the Industrial Relations Act (Strikes, Lockouts, Picketing, etc.)	176	15	0	0	191
To Treat Several Entities as One Employer	1	15	0	0	16
For Review of an Arbitration Award	20	10	1	0	31

cont.

TABLE 8 (cont.)

1988 APPLICATIONS AND COMPLAINTS ANALYZED BY APPLICANT

	Filed by Employer(s)	Filed by Union(s)	Filed by Employee(s)	Other	Total
For the Appointment(s) of an Observer(s) of a Strike or Lockout Poll	3	131	0	0	134
For the Appointment of an Arbitrator	0	807	0	0	807
For an Interim Order	61	2	1	0	64
For a Last Offer Vote	34	0	0	0	34
For Religious Exemption	0	0	26	0	26
For an Order Regarding an Alleged Failure to Execute or Comply with a Collective Agreement	3	9	0	0	12
For an Order Regarding Alleged Unlawful Alteration of Employment Terms and Conditions	0	18	0	0	18
For Essential Service Designations	0	0	0	2	2
For a Declaratory Opinion (Excluding Declaratory Opinions Pertaining to Part 5 of the Industrial Relations Act)	6	2	1	1	10
For an Order Prohibiting a Secondary Boycott	8	0	0	0	8
For an Order Regarding Freedom of Association	6	0	0	0	6
To Appoint a Fact Finder	2	0	0	0	2
Miscellaneous	4	16	0	0	20
For Reconsideration of a Decision	47	63	32	4	146
TOTAL	804	2551	324	16	3695

Note: In addition to the above, the Council received 94 requests in 1988 to file orders in the Supreme Court. Employers filed 82 of the requests, unions filed two requests, employees filed nine requests, and one request was filed jointly by an employee and an employer.

TABLE 9

ANALYSIS OF MEDIATION OFFICER APPOINTMENTS

Appointments continued from previous year	7
Appointments made - January 1-December 31, 1988	88
TOTAL	95
Breakdown of Appointments	
On application of employers	50
On application of trade unions	34
Joint applications	
* At direction of the Minister or Commissioner	4
TOTAL	88
Coverage of Appointments	
Number of employers involved	109
Number of units affected	103
Number of employees involved	10,397
Disposition of Appointments	
Parties reached agreement	57
Parties did not reach agreement	8
Appointments continuing	26
Appointments rescinded	2
* Other	2
TOTAL	95
Additional Settlements	
Following report of the mediation officer	17
No official appointment	4
TOTAL	21

* S.69(2) of the Labour Code empowered the Minister, on his own motion, to appoint a mediation officer. On July 27, 1987, the Industrial Relations Reform Act, 1987 repealed S.69 of the Labour Code; S.137.7(3) of the Industrial Relations Act empowers the Commissioner to refer a matter to the Chairman of the Disputes Resolution Division for appointment of a mediation officer.

TABLE 10

DISPUTES COMPLETED BY MEDIATION OFFICERS IN 1988

Appointments	95
Less rescinded appointments	2
Less continuing	26
TOTAL	67
Plus no appointment	4
TOTAL DISPUTES COMPLETED	71
Disputes settled during mediation officer's term	40
Disputes settled after mediation officer's term	17
Disputes settled no official appointment	4
TOTAL SETTLED	61
Disputes reported not settled	10
Less settled following report	0
TOTAL NOT SETTLED	10
SUCCESS RATE OF SETTLEMENTS	83.61%

TABLE A

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(1) THE LABOUR CODE

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code, R.S.B.C. 1979, c.212 (formerly Labour Code of British Columbia, S.B.C. 1973, (2nd Sess.), c.122)	November 13, 1973 Proclamation	12, 26, 124, 139, 140, 150	Reg. 424/74, Pt.II, V.16, p.645
	December 20, 1973 Proclamation	21, 55	Reg. 12/74, Pt.II, V.17, p.158
	January 14, 1974 Proclamation	1-11, 13-20, 22-25, 27-30, 32-54, 56, 59-69, 73, 92-112, 122, 123, 125-127, 138, 141-149, 150A, 151(a), 152	Reg. 41/74, Pt.II, V.17, p.192
	January 24, 1974 Proclamation	70-72	Reg. 53/74, Pt.II, V.17, p.195
	March 1, 1974 Proclamation	74-78	Reg. 154/74, Pt.II, V.17, p.407
	March 14, 1974 Proclamation	113-121A	Reg. 174/74, Pt.II, V.17, p.433
	August 15, 1974 Proclamation	57, 58	Reg. 578/74, Pt.II, V.17, p.949
	September 2, 1974 Proclamation	31, 79-91	Reg. 606/74, Pt.II, V.17, p.998
	September 16, 1974 Proclamation	151(b) and (c)	Reg. 682/74, Pt.II, V.17, p.1116

TABLE A (cont.)

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(2) AMENDING ACTS

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Statute Law Amendment Act, 1974, S.B.C. 1974, c.87, s.22	October 14, 1974 Proclamation	22(a) (among others)	Reg. 709/74, Pt.II, V.17, p.1158
	June 20, 1974 Royal Assent	22(b) - 22(i) (among others)	N/A
Essential Services Continuation Act, S.B.C. 1974, c.108, s.6	August 9, 1974 Royal Assent	6 (among others)	N/A
Elevator Construction Industry Labour Disputes Act, S.B.C. 1974, c.107, s.6	November 26, 1974 Royal Assent	6 (among others)	N/A
Labour Code of British Columbia Amendment Act, 1975, S.B.C. 1975, c.33	June 26, 1975 Royal Assent	1-6, 8-33	N/A
	January 14, 1974 Retroactive Effect	7	N/A
Labour Code of British Columbia Amendment Act, 1976, S.B.C. 1976, c.26	June 30, 1976 Royal Assent	1-8	N/A
Miscellaneous Statutes Amendment Act, 1976, S.B.C. 1976, c.32	July 8, 1976 Proclamation	12A	Reg. 391/76, Pt.II, V.19, p.511
Labour Code of British Columbia Amendment Act, 1977, S.B.C. 1977, c.72	September 27, 1977 Royal Assent	1-12	N/A
Ministerial Titles Amendment Act, S.B.C. 1977, c.75	October 21, 1977 Proclamation	Sch. I, Ss.8(2), 127(3), 129(a), 136, 137(1)(a)	N/A
Essential Services Disputes Act, S.B.C. 1977, c.83	October 28, 1977 Proclamation	19 repeals 73(1) to (6)	N/A
Miscellaneous Statutes Amendment Act, 1978, S.B.C. 1978, c.28	July 6, 1978 Proclamation	11 amends 69	N/A
Financial Administration Act, S.B.C. 1981, c.15	November 26, 1981 Proclamation	117 repeals 139(2)	Reg. 468/81, Pt.II, V.24, p.981
Court of Appeal Act, S.B.C. 1982, c.7	September 7, 1982 Proclamation		Reg. 302/82, Pt.II, V.25, p.428

TABLE A (cont.)

STATUTORY HISTORY OF THE INDUSTRIAL RELATIONS ACT

(2) AMENDING ACTS (cont.)

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code Amendment Act, 1982, S.B.C. 1982, c.59	August 4, 1982 Proclamation		Reg. 354/82, Pt.II, V.25, p.564
Regulations Act, S.B.C. 1983, c.10	October 26, 1983 Regulation	21, 25 and Schedules 2 and 16 amend 21(2), 29(1)(a), (b), 29(2), 35(c), 42(2), 59(2), 60(c), 61(2), 73(1)(a), 75, 81(5)(a), (6), 142(1), 154	Reg. 393/83, Pt.II, V.26, p.607
Labour Code Amendment Act, 1984, R.S.B.C. 1984, c.24	June 8, 1984 Regulation	1-19 except 13	Reg. 167/84, Pt.II, V.27, p.221
	August 27, 1984 Regulation	13	Reg. 274/84, Pt.II, V.27, p.358
Commercial Arbitration Act, S.B.C. 1986, c.3	July 4, 1986 Regulation	47 repeals 99(4)	Reg. 148/86
Industrial Relations Reform Act, 1987, S.B.C. 1987, c.24	July 27, 1987 Regulation	The whole Act except S.2(e) and that part of S.60 that enacts S.137.97 to S.137.99	Reg. 246/87
Miscellaneous Statutes Amendment Act (No. 5), 1987, S.B.C. 1987, c.60	December 17, 1987 Royal Assent	9 amends 26(2)	

TABLE B

STATUTES CONFERRING AUTHORITY ON THE COUNCIL

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Industrial Relations Act, R.S.B.C. 1979, c.212	Refer Table A	1-127, 137.1-137.96, 138-154	
Public Service Labour Relations Act, R.S.B.C. 1979, c.346	January 3, 1974 Proclamation	1-14, 17-28 (amendments to Ss.4, 11 and 17 yet to be proclaimed)	Reg. 14/74, Pt.II, V.17, p.160
Assessment Authority Act, R.S.B.C. 1979, c.22	June 20, 1974 Royal Assent	21 (among others)	N/A
Institute of Technology Act, R.S.B.C. 1979, c.199	July 4, 1974 Proclamation	7	Reg. 485/74, Pt.II, V.17, p.788
Ferry Corporation Act, R.S.B.C. 1979, c.128	June 30, 1976 Royal Assent	23 (among others)	N/A
System Act, R.S.B.C. 1979, c.399	September 1, 1977 Proclamation	17 (among others)	Reg. 349/77, Pt.II, V.20, p.665
Science Council Act, R.S.B.C. 1979, c.379	June 29, 1978 Royal Assent	1-17	N/A
British Columbia Transit Act, R.S.B.C. 1979, c.421	June 29, 1978 Royal Assent	1-25	N/A
College and Institute Act, R.S.B.C. 1979, c.53	October 10, 1978 Proclamation	30(8)	Reg. 463/78, Pt.II, V.21, p.1219
	December 15, 1977 Proclamation	42 (among others)	Reg. 607/77, Pt.II, V.21, p.357
Metro Transit Operating Company Act, R.S.B.C. 1979, c.257	July 31, 1979 Royal Assent	6	N/A
Employment Standards Act, S.B.C. 1980, c.10	March 14, 1981 Proclamation		Reg. 35/81, Pt.II, V.24, p.85
Metro Transit Collective Bargaining Assistance Act, S.B.C. 1984, c.33	September 14, 1984 Royal Assent	1-12	N/A

TABLE C

REGULATIONS UNDER THE INDUSTRIAL RELATIONS ACT

Effective Date	Regulation No.	B.C. Gazette References
* July 27, 1987	Industrial Relations (Voting) Regulation	Reg. 247/87, Pt.II, V.30, p.268
* July 27, 1987	Industrial Relations (Practice and Procedure) Regulation	N/A

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* Reg. 247/87 was enacted by the Lieutenant Governor in Council pursuant to Section 150 of the Act. Reg. 247/87 repealed the Labour Code Regulations, B.C. Reg. 522/73. On July 27, 1987, pursuant to Section 21(2) of the Act, and with the approval of the Minister of Labour and Consumer Services, the Industrial Relations Council made the Industrial Relations (Practice and Procedure) Regulation, which may be referred to as the Industrial Relations Council Rules.

TABLE D

STATUTES AFFECTING THE INDUSTRIAL RELATIONS ACT

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
University Act, R.S.B.C. 1979, c.419	October 7, 1977 Proclamation of S.38, Miscellaneous Statutes Amendment Act, 1977, S.B.C. 1977, c.76	80	Reg. 434/77, Pt.II, V.20, p.767